

**INTERLOCAL AGREEMENT BETWEEN FLORIDA GREEN FINANCE AUTHORITY  
AND SARASOTA COUNTY AUTHORIZING THE OPERATION OF A NON-  
EXCLUSIVE PROPERTY ASSESSMENT CLEAN ENERGY (PACE) PROGRAM IN  
SARASOTA COUNTY**

This non-exclusive Interlocal Agreement ("Agreement") is entered into July 10, 2018 by and between the Florida Green Finance Authority, a public body created pursuant to Section 163.01(7), Florida Statutes, (the "PACE Local Government"), and Sarasota County, a political subdivision of the State of Florida ("County") collectively, the ("Parties"), related to the non-exclusive operation of PACE 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, 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, Florida Statutes (the "PACE Statute"), authorizes Local Governments, including a public body created pursuant to Section 163.01(7), Florida Statutes, to finance Qualifying Improvements with a voluntary non-ad valorem special assessment process as the repayment mechanism (the "PACE Program") in those jurisdictions where the local governing body has adopted an ordinance or resolution authorizing the PACE Program within its jurisdiction and the PACE Local Government has entered into an interlocal agreement with that local governing body; and

**WHEREAS**, the PACE Local Government was created as a separate legal entity by interlocal agreement between the Towns of Lantana and Mangonia Park, pursuant to Section 163.01(7), Florida Statutes, to finance qualifying improvements, including energy conservation and efficiency, renewable energy, and wind resistance improvements, in accordance with the PACE Statute, as may be amended; and

**WHEREAS**, the Sarasota County Board of County Commissioners has adopted Ordinance No. 2017-051, entitled the Sarasota County Property Assessed Clean Energy (PACE) Program (the "Ordinance"), which is incorporated herein by reference and authorizes a PACE Program to be administered within unincorporated Sarasota County by those PACE Local Governments that have entered into an interlocal agreement with the County and provides for certain consumer protections and requirements for PACE Local Governments; and

**WHEREAS**, the Parties have determined that entering into this 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 Agreement is to facilitate the financing of Qualifying Improvements for property owners within the County in accordance with the PACE Statute, the Ordinance and applicable Federal and state law, by allowing the PACE Local Government to operate within the unincorporated County and in all municipalities that opt in to the PACE Program by adopting an ordinance or resolution (“Participating Municipalities”). Where the PACE Statute, the Ordinance, and any applicable state and/or Federal law provides different standards upon the PACE Local Government in the operation of the PACE program, the strictest requirement will apply under this Agreement unless expressly prohibited by controlling law.
- Section 3. Definitions. All capitalized terms in this Agreement shall have the meaning set forth in the Ordinance, if defined therein, or as otherwise specifically defined in this Agreement.
- Section 4. Authorization Letter. Before the PACE Local Government is authorized to enter into any PACE Financing Agreements within Sarasota County, they must receive an authorization letter from the PACE Program Coordinator. In order to receive the authorization letter from the PACE Program Coordinator, the PACE Local Government must provide proof that their PACE program design meets the requirements of the PACE Statute, Ordinance, and this Agreement. In order to do so they must, at a minimum, provide copies of the following materials along with an outline of specific references to sections that meet the requirements of the Ordinance and this Agreement:
- a. PACE Financing Agreement (template)
  - b. Notice to Property Owner (template)
  - c. Eligible Measures List
  - d. Contractor Code of Conduct
  - e. Contractor training materials and schedule
  - f. Customer Service: email, phone, website, document outlining complaint process
  - g. Eligibility criteria, including additional program standards for residential properties.
  - h. Rates, fees and charges charged by or through the PACE Local Government

i. Agreements with the Tax Collector and Property Appraiser

Additionally, the PACE Local Government shall provide updated copies of these materials being utilized on the annual anniversary of the execution of this Agreement. Failure of the materials to adhere to requirements of the Statute, the Ordinance or this Agreement shall result in suspension or termination in accordance with Section 38-332 of the Sarasota County Code or other enforcement action as appropriate.

Section 5. Qualifying Improvements. The PACE Local Government is authorized, subject to the terms of the Ordinance and this Agreement, to provide financing of Qualifying Improvements, as defined in the Ordinance and Section 163.08, Florida Statutes, as may be amended from time to time, on properties within the unincorporated County and Participating Municipalities. The following additional requirements shall apply to the authorized operation of the PACE Program under this Agreement. However, the PACE Program Coordinator is authorized to defer these additional requirements for a term up to one year from the date of the Authorization Letter if the PACE Local Government demonstrates that it does not have the ability to comply as of the date of the Authorization Letter and that it would create an unreasonable hardship to immediately modify its procedures and documents to comply. Full compliance will be required upon the expiration of any deferral period.

- a. If the Qualifying Improvement falls within an eligible category under ENERGY STAR, the product must be ENERGY STAR Certified in order to be considered as a Qualifying Improvement eligible for the PACE Program.
- b. Unless exempted by the PACE Program Coordinator for good cause, , any solar photovoltaic system installed shall have an online monitoring system for maintenance and production monitoring purposes, provided the residence or business has appropriate connectivity.

Section 6. Non-Exclusive. The authorization for the PACE Local Government to administer the PACE Program in the unincorporated County or the Participating Municipalities is non-exclusive. The County specifically reserves the right to either operate its own PACE program or enter into additional interlocal agreements with any other entity authorized pursuant to the PACE Statute to provide a similar program within the unincorporated County and Participating Municipalities.

Section 7. Assessment by the PACE Local Government; Tax Collector Role Ministerial. The Parties hereto acknowledge and agree that the non-ad valorem assessments arising from a property owner's voluntary participation in the PACE Program are imposed by the PACE Local Government and not the County. Additionally, the Parties agree that the collection and distribution of any non-ad valorem assessments imposed by the PACE Local Government are purely ministerial acts by the Tax Collector pursuant to state law.

Section 8. Creation of State, County, or Municipal Debts Prohibited. The County and Participating Municipalities shall not incur nor ever be requested to authorize any obligations secured by special assessments associated with Qualifying Improvements imposed by the PACE Local Government pursuant to the PACE Statute and the Ordinance. No PACE 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 in any manner whatsoever. No revenue bonds or debt obligations of any PACE Local Government acting pursuant to the PACE Statute, shall ever pledge or imply any pledge that the County or any Participating Municipality 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 Participating Municipality within the County as a result of the Ordinance or this Agreement. The issuance of bonds by the PACE Local Government under the provisions of law, the PACE Local Government's governance documents, or any agreement or resolution shall not, as the result of the Ordinance or this Agreement, be deemed in any manner, directly or indirectly or contingently, to obligate the County and Participating Municipalities, 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 9. Program Requirements:

The Parties agree that the PACE Program to be offered in the unincorporated County and Participating Municipalities will be governed by the Ordinance, the PACE Statute, applicable Federal law, applicable state law, and this Agreement, including the following additional program requirements:

- a. The PACE Local Government will inform every property owner that by law these non-ad valorem assessments must be collected pursuant to Sections 163.08, 197.3632, and 197.3635, Florida Statutes and that the assessment shall not be subject to discount for early payment; and, are not imposed by the County, any Participating Municipality, the property appraiser, or the tax collector, and that they are levied and imposed solely by the PACE Local Government, and only then upon voluntary application of the private property owner as expressly authorized by the PACE Statute and the Ordinance. The following statement, in substantially the following form, must be included on the Notice to Property Owner: **The Assessment will appear on the property tax bill, and will not be eligible for early payment discounts.**
- b. The PACE Local Government will also inform every property owner that the PACE Local Government will share data pertaining to the details of their PACE project and assessment with government entities for the purpose of evaluating program demand, benefits, and consumer protections consistent with applicable Federal and state law. An option for the property owner to opt out of sharing personal data may be provided, but they must be informed that data will still be provided in aggregate

format and on an individual level as necessary for the purposes of the assessment, TRIM notice, and property tax bill.

- c. The PACE Local Government shall not approve any PACE Assessment on properties that are subject to a reverse mortgage.
- d. The PACE Local Government shall include in their contractor Code of Conduct a requirement that approved contractors must maintain proof of their license/certification, insurance, and business tax receipts (occupational license) and provide to Property Owners if requested. The PACE Local Government must also give the property owner the document outlining the complaint process covering the PACE program and participating contractors or a summary sheet including a web link to the full document.
- e. Recognizing that there may be ongoing consequences and risk that some lenders may require full repayment of the special assessments upon resale or refinancing, in addition to the disclosures and protections required in the Ordinance, the PACE Local Government shall provide assistance to any Property Owner that faces such a requirement.

Section 10. Opinion of Bond Counsel. As a condition precedent to the authorization to operate a PACE Program in Sarasota County under the terms of this Agreement, the PACE Local Government shall deliver to the County an “Opinion of Bond Counsel,” within 30 days of execution of this Agreement, stating that, based on the counsel’s review of the bond validation judgment and the underlying bond documents of the PACE Local Government, the PACE Program’s structure complies with the bond validation judgment and the underlying bond documents. The PACE Local Government acknowledges that the County is relying on the Opinion of Bond Counsel as a material inducement due the County’s decision to enter into this Agreement.

Section 11. Boundaries. To help finance the costs of Qualifying Improvements for those individual properties, the PACE Local Government is authorized, on a non-exclusive basis, to levy voluntary, non-ad valorem special assessments on the benefitted properties within the geographic boundaries of unincorporated County and within the Participating Municipalities, pursuant to their respective opt-in ordinance or resolution. Those properties receiving financing for Qualifying Improvements shall be assessed, in accordance with the PACE Statute, the Ordinance, the opt-in ordinance or resolution of each Participating Municipality 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 the PACE Local Government’s Program until such time the financial obligations owed pursuant to all properly signed PACE Financing Agreements have been satisfied, released, or otherwise resolved.

Section 12. Financing Agreement. The Parties agree that the PACE Local Government may enter into a PACE Financing Agreement, pursuant to the PACE Statute and the

Ordinance with property owner(s) who obtain financing through the PACE Local Government within the geographical boundaries of unincorporated County and Participating Municipalities. Notwithstanding any other provision in this Agreement, rates, fees and charges charged by or through the PACE Local Government shall not exceed those contained in Chapter 687, Florida Statutes.

Section 13. Responsibilities of the PACE Local Government; 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, and Participating Municipalities, shall apply to the officials, officers, agents or employees thereof when performing their respective functions and duties under the provisions of this Agreement.
- b. The County, Participating Municipalities, and the PACE Local Government are and shall be subject to the limitations of liability provided in Section 768.28, Florida Statutes, and any other relevant provisions of Florida law governing sovereign immunity. Nothing in this Agreement is intended to waive or alter the sovereign immunity of any of the Parties hereto including, but not limited to the express monetary limits of liability set forth in Section 768.28, Florida Statutes. Pursuant to the PACE Statute and this Agreement, the local governments who are either the incorporators or members of the PACE Local Government or any subsequently served or participating local government shall not be held jointly liable for the torts of the officers or employees of the PACE Local Government, or any other tort attributable to the PACE Local Government, and the PACE Local Government 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.
- c. To the extent provided by law, the PACE Local Government agrees to protect, defend, reimburse, indemnify and hold the County and Participating Municipalities, their 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 PACE Local Government, its agents, employees, or officials or anyone acting under its direction or control, or on its behalf in connection with or incident to the performance of this Agreement. The PACE Local Government’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 Participating Municipalities, its respective agents, servants, employees or officers, nor shall the liability limits set forth in Section 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, the PACE Local Government 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. The PACE Local Government is an independent local government. Neither the County, nor any Participating Municipality, who have authorized the PACE Local Government to implement the Program within its respective jurisdiction, shall in any manner be obligated to pay any debts, obligations or liabilities arising as a result of any actions of the PACE Local Government, its Board of Directors or any other agents, employees, officers or officials of the PACE Local Government. In addition, the PACE Local Government, its Board of Directors or any other agents, employees, officers or officials of the PACE Local Government shall have no authority or power to otherwise obligate either the County, or any Participating Municipalities within the County served by the PACE Local Government.

Section 14. Agreements with Tax Collector, Property Appraiser and Municipalities.

- a. The PACE Local Government acknowledges that the County has no authority to bind the County Tax Collector and the County Property Appraiser, and the PACE Local Government 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. The PACE Local Government also acknowledges that until an incorporated municipality in the County has adopted an ordinance or resolution authorizing the PACE Program to be implemented within its respective jurisdiction, the PACE Local Government shall have no authority to operate the Program within such municipality.
- b. As a condition precedent to the authorization to operate a PACE Program under the terms of this Agreement within Sarasota County, the PACE Local Government must enter into separate written agreements as required by Section 197.3632(2), Florida Statutes, for the reimbursement and compensation of tax collectors and property appraisers as prescribed by law.
- c. The PACE Local Government, not the County nor Participating Municipalities, is the local government imposing the subject non-ad valorem assessments and shall be solely responsible for compliance with all applicable law and all matters associated with origination, funding, financing, administration, and collection (in concert with the uniform method of collection set forth in Section 197.3632, Florida Statutes) of each of the resulting non-ad valorem assessments.

Section 15. Resale or Refinancing of a Property. The PACE Local Government 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 PACE Local Government agrees to provide written disclosure of this matter to all property owners that may utilize the Program, as outlined in the Ordinance.

Section 16. Reporting. In addition to the reporting requirements in the Ordinance, the PACE Local Government shall encourage participants conducting energy improvements to complete a utility information release form to enable reporting on their actual energy use and energy cost after completion of their respective project(s). For those participants that agree to do so, the PACE Local Government shall provide the PACE Program Coordinator with the signed release form as part of their quarterly metrics reporting. The PACE Local Governments shall encourage participants conducting hurricane improvements to agree to participate in an annual survey conducted by the County to collect information on insurance cost savings after completion of the project. If the PACE Local Government prefers, they can send the link that the county provides directly to the customers. The PACE Program Coordinator is authorized to defer these additional requirements for a term up to one year from the date of the Authorization Letter if the PACE Local Government demonstrates that it does not have the ability to comply as of the date of the Authorization Letter and that it would create an unreasonable hardship to immediately modify its procedures and documents to comply. The PACE Local Government shall provide the PACE Program Coordinator with a copy of the document(s) provided to the Property Owner to comply with this section. Full compliance will be required upon the expiration of any such deferral period unless the PACE Program Coordinator approves a further deferral or an alternative method of compliance.

Section 17. Responsive Communications. The PACE Local Government will promptly respond in writing to all written communications, including email, from the County. Such response shall be deemed prompt if made in a reasonable and complete manner within ten (10) days of receipt of any such written communication. This paragraph shall not be construed as containing any obligation for the County to receive complaints or concerns about the PACE Local Government's or its designee's performance, policies, systems, or procedures. The County will refer all such complaints or concerns directly to the PACE Local Government for a response. The PACE Local Government shall follow the customer service procedures as outlined in the Ordinance.

Section 18. Term of Agreement: Duration of Agreement.

- a. The term of this Agreement shall commence upon recording of this Agreement with the Sarasota County Clerk of Court.
- b. Either party may at any time terminate this Agreement upon sixty (60) days written notice. Provided, however, no termination of this Agreement shall preclude the PACE Local Government from exercising its power or authority to collect any of the assessments owed pursuant to a properly signed and performed PACE Financing Agreement. The party that terminates this Agreement will be responsible for filing a notice of such termination with the Sarasota County Clerk of Court.



- c. The applicable provisions, authority and responsibility under this Agreement reasonably necessary to carry out the remaining aspects of the Program and responsibilities of the PACE Local Government then underway shall remain in effect and survive any termination until such time as those obligations and all associated remaining responsibilities of the PACE Local Government are fulfilled (including, but not limited to, the collection of assessments in due course).

Section 19. Consent. This Agreement and the Ordinance shall be considered the County's consent for the PACE Local Government to implement the PACE Program within unincorporated County pursuant to the PACE Statute and the Ordinance.

Section 20. 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: Sarasota County  
ATTN: County Administrator  
1660 Ringling Blvd.  
Sarasota, Florida 33236

With a copy to: Sarasota County  
ATTN: County Attorney  
1660 Ringling Blvd., Rm. 250  
Sarasota, Florida 33236

PACE Local  
Government:  
Todd Wodraska  
Special District Services  
2501A Burns Road  
Palm Beach Gardens, FL 33410

With a copy to:  
Keith Davis, Esq  
Davis & Ashton, P.A.  
701 Northpoint Parkway, Suite 205  
West Palm Beach, Florida 33407

Section 21. 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 with the same formality and of equal dignity herewith by the Parties hereto.

Section 22. 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 23. Merger. This 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 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 24. 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 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. 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 27. Severability. In the event a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective.

Section 28. Administrator Indemnification; Additional Insured.

- a. The PACE Local Government will promptly request and obtain from its administrator, Renew Financial Group, LLC, and any subsequent administrator, a separate indemnification agreement as to its actions and activities on behalf of the PACE Local Government concerning all of the subject matter of this Agreement for the benefit of the County and Participating Municipalities. The form of the indemnification agreement must be approved by the County Attorney's Office, prior to the administrator assuming responsibilities for the PACE Local Government pursuant to this agreement.
- b. The PACE Local Government shall promptly request and obtain from its administrator, Renew Financial Group, LLC and any subsequent administrator, and shall provide the County with a copy of a certificate showing the County as an additional insured for the coverages the PACE Local Government requires of its administrator, which shall be at a minimum:

|                       |             |
|-----------------------|-------------|
| Worker's Compensation | Statutory   |
| Employer's Liability  | \$1,000,000 |

|                              |                                   |
|------------------------------|-----------------------------------|
| Commercial General Liability | \$1,000,000 per occurrence        |
|                              | \$1,000,000 aggregate             |
| Commercial Auto Liability    | \$1,000,000 combined single limit |
| Professional Liability (E&O) | \$1,000,000 per occurrence        |
|                              | \$2,000,000 aggregate             |

- c. The statement or certificate evidencing the County is named as an additional insured will include a standard insurance industry statement prohibiting cancellation, termination, or modification of the policy or a reduction of coverage without first giving the County (as an additional insured) at least ten (10) days prior written notice of such proposed action.

Section 29. Insurance by the PACE Local Government. Without waiving the right to sovereign immunity as provided by Section 768.28, Florida Statute, the PACE Local Government acknowledges that it is self-insured for General Liability and Automobile Liability under Florida sovereign immunity statutes with limits of liability at \$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 the PACE Local Government maintains third-party Commercial General Liability and Business Auto Liability in lieu of exclusive reliance of self-insurance under Section 768.28 Florida Statute, the PACE Local Government shall agree to maintain said insurance policies at limits not less than \$500,000 combined single limit for bodily injury or property damage. The PACE Local Government agrees to maintain or to be self-insured for Workers' Compensation & Employer's Liability insurance in accordance with Section 440, Florida Statutes. When requested, the PACE Local Government shall agree to provide Certificate of Insurance evidencing the insurance coverage requirements set forth herein or an affidavit of self-insurance demonstrating the insurance coverage required herein. Compliance with the foregoing requirements shall not satisfy, modify or otherwise relieve the PACE Local Government of its indemnification liability and obligations under this Agreement.

Section 30. Dispute Resolution. In the event of a dispute between the PACE Local Government and the County under this Agreement, the PACE Local Government Manager and the County Administrator, or their respective designees, shall review such dispute and options for resolution. The joint decision of the PACE Local Government Manager and the County Administrator regarding the dispute shall be final. In the event the PACE Local Government Manager and County Administrator are unable to agree, then the matter shall be referred to the respective governing bodies, who may jointly elect to hold a joint meeting in Sarasota County. This process shall substitute for the dispute resolution process set forth in Chapter 164 of the Florida Statutes.

Section 31. 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 Sarasota County, Florida. In any such action, Florida law shall apply. BY ENTERING INTO THIS AGREEMENT, THE PACE LOCAL GOVERNMENT 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 THE PACE LOCAL GOVERNMENT 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, THE PACE LOCAL GOVERNMENT SHALL BE LIABLE FOR THE REASONABLE ATTORNEYS' FEES AND COSTS OF THE COUNTY IN CONTESTING THE REQUEST FOR JURY TRIAL, AND SUCH AMOUNTS SHALL BE AWARDED BY THE COURT IN ADJUDICATING THE MOTION.

- Section 32. Recording; Effective Date. This Agreement shall be recorded by the PACE Local Government with the Clerk of the Circuit Court in Sarasota County, Florida and shall become effective upon such filing.
- Section 33. 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 34. Equal Opportunity Provision. Neither the PACE Local Government nor its respective, agents, successors, or assigns shall practice discrimination on the basis of race, age, color, ancestry, disability, national origin, religion, age, familial status, marital status, sex, gender, sexual orientation, gender identity and expression, or genetic information under any activity carried out by the performance of this Agreement.
- Section 35. Captions. The captions and section designations herein set forth are for convenience only and shall have no substantive meaning.

[signature page follows]

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.

**ATTEST:**

**KAREN E. RUSHING**, Clerk of Circuit Court and Ex-Officio Clerk of the Board of County Commissioners of Sarasota County, Florida

By: [Signature]  
Deputy Clerk

**BOARD OF COUNTY COMMISSIONERS OF SARASOTA COUNTY, FLORIDA**

By: [Signature]  
Chair

Date: 7/10/18

Approved as to form and correctness:

By: [Signature]  
County Attorney, *KRS*

**ATTEST:**

By: [Signature]  
Secretary

**Florida Green Finance Authority**

By: [Signature]  
Chair

Date: 5/29/18

Approved as to form and legal sufficiency:

By: [Signature]  
Keith Davis, Esq.  
Attorney for Florida Green Finance Authority

[SIGNATURE PAGE TO INTERLOCAL AGREEMENT]

**INDEMNIFICATION AGREEMENT BETWEEN RENEW FINANCIAL GROUP  
LLC, AS ADMINISTRATOR FOR THE FLORIDA GREEN FINANCE  
AUTHORITY, AND SARASOTA COUNTY, FLORIDA**

This Indemnification Agreement (the "Agreement") is entered into May 24, 2018 by and between Renew Financial Group LLC ("Renew"), administrator for the Florida Green Finance Authority ("FGFA"), and Sarasota County, a political subdivision of the State of Florida ("County") (collectively, the "Parties").

**WHEREAS**, Section 163.08, Florida Statutes, ("the PACE Statute") authorizes Local Governments to finance defined Qualifying Improvements with payments being secured through the use non-ad valorem assessments; and

**WHEREAS**, FGFA is a separate legal entity created pursuant to Section 163.01(7), Florida Statutes, for the purposes of financing Qualifying Improvements under the PACE Statute; and

**WHEREAS**, Renew is the administrator for FGFA's PACE Program in the County; and

**WHEREAS**, as a material inducement to and condition of the County allowing FGFA to operate a PACE program within Sarasota County, FGFA is required to protect, defend, reimburse, indemnify and hold the County and any Participating Municipalities free and harmless from and against all claims related to FGFA's operation of a PACE Program in Sarasota County; and

**WHEREAS**, as a material inducement to and condition of the County allowing FGFA to operate a PACE program within Sarasota County, FGFA's Administrator is also required to protect, defend, reimburse, indemnify and hold the County and any Participating Municipalities free and harmless from and against all claims related to the Administrator's actions related to its actions and activities the operation of a PACE Program; and

**NOW, THEREFORE**, the Parties hereby agree as follows:

1. The foregoing recitals are true and correct and incorporated into this Agreement.
2. **Indemnification.** Renew shall protect, defend, reimburse, indemnify and hold the County, its officers, employees, agents and instrumentalities (hereinafter referred to as the "Indemnified Parties") free and harmless at all times from and against any and all suits, actions, legal or administrative proceedings, claims, demands, damages, liabilities, losses, attorneys' fees, costs of defense, or other expense of whatsoever kind or nature (collectively a "Claim") which the Indemnified Parties may incur as a result of claims, demands, suits, causes of action or proceedings of any kind or nature arising out of, relating to, resulting from, or in any way connected with the actions or inactions of Renew, its employees, agents, servants,

partners, principals, administrators, subcontractors, or agents in operation of a PACE Program in Sarasota County. Renew shall pay all Claims and losses in connection therewith and shall investigate and defend all Claims, suits or losses in connection therewith and shall investigate and defend the Indemnified Parties against all Claims, suits or actions of any kind or nature, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue therefrom. Renew expressly understands and agrees that the provisions of the insurance required below shall in no way limit, modify or satisfy the responsibility to indemnify, keep and save harmless and defend the Indemnified Parties as herein provided. In the event any Claim is brought against an Indemnified Party, Renew shall, upon written notice from an Indemnified Party or FGFA, 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.

3. Insurance. Prior to the commencement of any efforts related to the operation of a PACE Program in Sarasota County, Renew shall provide the County with a copy of a certificate showing the County as an additional insured for under all policies the coverages the PACE Local Government requires of its administrator, which shall be at a minimum:

|                              |   |
|------------------------------|---|
| Worker's Compensation        | Statutory   |
| Employer's Liability         | \$1,000,000   |
| Commercial General Liability | \$1,000,000 per occurrence<br>\$1,000,000 aggregate |
| Commercial Auto Liability    | \$1,000,000 combined single limit                   |
| Professional Liability (E&O) | \$1,000,000 per occurrence<br>\$2,000,000 aggregate |

4. The Administrator shall provide County with at least 5 days advanced written notice of any suspension, cancellation, or reduction in limits of any insurance policy required by this Agreement, and shall promptly procure a replacement policy in full conformance with the requirements of this Agreement.
5. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. The parties agree that the exclusive venue for any lawsuit arising from, related to, or in conjunction with this Agreement shall be in the state courts in and for Sarasota County. The Parties hereby expressly agree that in the event of litigation regarding this Agreement, any and all rights to jury trial are waived.
6. The term of this Agreement shall begin upon execution by both Parties and continue so long as Renew is conducting activities related to the operation of a PACE Program in Sarasota County.

**IN WITNESS WHEREOF**, the Parties hereto have made and executed this Agreement each on this date noted below.

ATTEST:

KAREN E. RUSHING, Clerk of the Circuit Court and Ex-Officio Clerk of the Board of County Commissioners of Sarasota County, Florida

By: [Signature]  
Deputy Clerk

Approved as to form and correctness.

By: [Signature]  
County Attorney

Board of County Commissioners of Sarasota County, Florida

By: [Signature]  
Chair

Date: 7/10/18

ATTEST:

By: [Signature]  
Sachin Adarkar  
General Counsel & Secretary

Renew Financial Group LLC  
By: [Signature]  
Kirk Inglis  
Chief Executive Officer

Approved as to form and legal sufficiency.

By: [Signature]  
Julianne Spears  
Counsel to Renew

Date: May 24, 2018



RESOLUTION NO. 2018-137

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF SARASOTA COUNTY, FLORIDA, APPROVING AN INTERLOCAL AGREEMENT BETWEEN SARASOTA COUNTY AND FLORIDA GREEN FINANCE AUTHORITY FOR A PROPERTY ASSESSED CLEAN ENERGY (PACE) PROGRAM; APPROVING AN INDEMNIFICATION AGREEMENT BETWEEN SARASOTA COUNTY AND RENEW FINANCIAL GROUP LLC FOR THE BENEFIT OF SARASOTA COUNTY; AND DELEGATING AUTHORITY TO THE COUNTY ADMINISTRATOR OR DESIGNEE TO EXECUTE AGREEMENTS WITH SUBSEQUENT ADMINISTRATORS OF FLORIDA GREEN FINANCE AUTHORITY FOR THE BENEFIT OF SARASOTA COUNTY, AND EXERCISE CERTAIN PROVISIONS IN THE AGREEMENTS.

BOARD METINGS  
FILED FOR THE RECORD  
2018 JUL 11 PM 2:28  
KATHERINE HINDS  
CLERK OF THE COUNTY COMMISSION  
SARASOTA COUNTY, FLORIDA

WHEREAS, on October 11, 2017, the Board of County Commissioners ("Board") adopted Ordinance 2017-051 (the "PACE Program Ordinance"); and

WHEREAS, the PACE Program Ordinance provides that PACE Local Governments must enter into an interlocal agreement with the County prior to receiving authorization to operate and administer their PACE Program within Sarasota County; and

WHEREAS, the operation of the PACE Program in Sarasota County by the Florida Green Finance Authority will be done entirely without cost, liability or burden to Sarasota County; and

WHEREAS, the County is not joining or partnering with the Florida Green Finance Authority under the terms of the Interlocal Agreement but is merely providing the Florida Green Finance Authority with the limited, non-exclusive ability to operate a PACE Program in compliance with the terms of the PACE Act, the PACE Program Ordinance, and the Interlocal Agreement within Sarasota County at its own expense; and

WHEREAS, allowing the PACE Local Governments to operate their PACE Program in conformity with the terms of the PACE Act, the PACE Program Ordinance and the Interlocal Agreement is in the best interest of the citizens of Sarasota County;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SARASOTA COUNTY, FLORIDA, THAT:

2208-137

1. The Interlocal Agreement, in substantially the form attached hereto as Attachment A, is hereby approved and the Chair is authorized to sign the Interlocal Agreement.
2. The Indemnification Agreement between the County and Renew Financial Group LLC, as the administrator of Florida Green Finance Authority, in substantially the form attached hereto as Attachment B, is hereby approved and the Chair is authorized to sign the Indemnification Agreement.
3. The County Administrator or designee is authorized to execute Indemnification Agreements with subsequent administrators of FGFA, in a form approved by the Office of the County Attorney, to provide that such subsequent administrator of FGFA shall indemnify and hold harmless the County.
4. This Board authorizes the County Administrator or designee to exercise the provisions as provided in the above-mentioned Agreements.

PASSED AND DULY ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS THIS  
10<sup>th</sup> DAY OF July, 2018.

BOARD OF COUNTY COMMISSIONERS OF  
SARASOTA COUNTY, FLORIDA

By:   
CHAIR

ATTEST:

Karen E. Rushing, Clerk of the Circuit Court  
and Ex-Officio Clerk to the Board of County  
Commissioners of Sarasota County, Florida

By:   
DEPUTY CLERK

Attachment A

**INTERLOCAL AGREEMENT BETWEEN FLORIDA GREEN FINANCE AUTHORITY  
AND SARASOTA COUNTY AUTHORIZING THE OPERATION OF A NON-  
EXCLUSIVE PROPERTY ASSESSMENT CLEAN ENERGY (PACE) PROGRAM IN  
SARASOTA COUNTY**

This non-exclusive Interlocal Agreement ("Agreement") is entered into \_\_\_\_\_, 2018 by and between the Florida Green Finance Authority, a public body created pursuant to Section 163.01(7), Florida Statutes, (the "PACE Local Government"), and Sarasota County, a political subdivision of the State of Florida ("County") collectively, the ("Parties"), related to the non-exclusive operation of PACE 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, 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, Florida Statutes (the "PACE Statute"), authorizes Local Governments, including a public body created pursuant to Section 163.01(7), Florida Statutes, to finance Qualifying Improvements with a voluntary non-ad valorem special assessment process as the repayment mechanism (the "PACE Program") in those jurisdictions where the local governing body has adopted an ordinance or resolution authorizing the PACE Program within its jurisdiction and the PACE Local Government has entered into an interlocal agreement with that local governing body; and

**WHEREAS**, the PACE Local Government was created as a separate legal entity by interlocal agreement between the Towns of Lantana and Mangonia Park, pursuant to Section 163.01(7), Florida Statutes, to finance qualifying improvements, including energy conservation and efficiency, renewable energy, and wind resistance improvements, in accordance with the PACE Statute, as may be amended; and

**WHEREAS**, the Sarasota County Board of County Commissioners has adopted Ordinance No. 2017-051, entitled the Sarasota County Property Assessed Clean Energy (PACE) Program (the "Ordinance"), which is incorporated herein by reference and authorizes a PACE Program to be administered within unincorporated Sarasota County by those PACE Local Governments that have entered into an interlocal agreement with the County and provides for certain consumer protections and requirements for PACE Local Governments; and

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

R2018-137

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 Agreement is to facilitate the financing of Qualifying Improvements for property owners within the County in accordance with the PACE Statute, the Ordinance and applicable Federal and state law, by allowing the PACE Local Government to operate within the unincorporated County and in all municipalities that opt in to the PACE Program by adopting an ordinance or resolution ("Participating Municipalities"). Where the PACE Statute, the Ordinance, and any applicable state and/or Federal law provides different standards upon the PACE Local Government in the operation of the PACE program, the strictest requirement will apply under this Agreement unless expressly prohibited by controlling law.
- Section 3. Definitions. All capitalized terms in this Agreement shall have the meaning set forth in the Ordinance, if defined therein, or as otherwise specifically defined in this Agreement.
- Section 4. Authorization Letter. Before the PACE Local Government is authorized to enter into any PACE Financing Agreements within Sarasota County, they must receive an authorization letter from the PACE Program Coordinator. In order to receive the authorization letter from the PACE Program Coordinator, the PACE Local Government must provide proof that their PACE program design meets the requirements of the PACE Statute, Ordinance, and this Agreement. In order to do so they must, at a minimum, provide copies of the following materials along with an outline of specific references to sections that meet the requirements of the Ordinance and this Agreement:
- a. PACE Financing Agreement (template)
  - b. Notice to Property Owner (template)
  - c. Eligible Measures List
  - d. Contractor Code of Conduct
  - e. Contractor training materials and schedule
  - f. Customer Service: email, phone, website, document outlining complaint process
  - g. Eligibility criteria, including additional program standards for residential properties.
  - h. Rates, fees and charges charged by or through the PACE Local Government

i. Agreements with the Tax Collector and Property Appraiser

Additionally, the PACE Local Government shall provide updated copies of these materials being utilized on the annual anniversary of the execution of this Agreement. Failure of the materials to adhere to requirements of the Statute, the Ordinance or this Agreement shall result in suspension or termination in accordance with Section 38-332 of the Sarasota County Code or other enforcement action as appropriate.

Section 5. Qualifying Improvements. The PACE Local Government is authorized, subject to the terms of the Ordinance and this Agreement, to provide financing of Qualifying Improvements, as defined in the Ordinance and Section 163.08, Florida Statutes, as may be amended from time to time, on properties within the unincorporated County and Participating Municipalities. The following additional requirements shall apply to the authorized operation of the PACE Program under this Agreement. However, the PACE Program Coordinator is authorized to defer these additional requirements for a term up to one year from the date of the Authorization Letter if the PACE Local Government demonstrates that it does not have the ability to comply as of the date of the Authorization Letter and that it would create an unreasonable hardship to immediately modify its procedures and documents to comply. Full compliance will be required upon the expiration of any deferral period.

- a. If the Qualifying Improvement falls within an eligible category under ENERGY STAR, the product must be ENERGY STAR Certified in order to be considered as a Qualifying Improvement eligible for the PACE Program.
- b. Unless exempted by the PACE Program Coordinator for good cause, , any solar photovoltaic system installed shall have an online monitoring system for maintenance and production monitoring purposes, provided the residence or business has appropriate connectivity.

Section 6. Non-Exclusive. The authorization for the PACE Local Government to administer the PACE Program in the unincorporated County or the Participating Municipalities is non-exclusive. The County specifically reserves the right to either operate its own PACE program or enter into additional interlocal agreements with any other entity authorized pursuant to the PACE Statute to provide a similar program within the unincorporated County and Participating Municipalities.

Section 7. Assessment by the PACE Local Government; Tax Collector Role Ministerial. The Parties hereto acknowledge and agree that the non-ad valorem assessments arising from a property owner's voluntary participation in the PACE Program are imposed by the PACE Local Government and not the County. Additionally, the Parties agree that the collection and distribution of any non-ad valorem assessments imposed by the PACE Local Government are purely ministerial acts by the Tax Collector pursuant to state law.

Section 8. Creation of State, County, or Municipal Debts Prohibited. The County and Participating Municipalities shall not incur nor ever be requested to authorize any obligations secured by special assessments associated with Qualifying Improvements imposed by the PACE Local Government pursuant to the PACE Statute and the Ordinance. No PACE 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 in any manner whatsoever. No revenue bonds or debt obligations of any PACE Local Government acting pursuant to the PACE Statute, shall ever pledge or imply any pledge that the County or any Participating Municipality 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 Participating Municipality within the County as a result of the Ordinance or this Agreement. The issuance of bonds by the PACE Local Government under the provisions of law, the PACE Local Government's governance documents, or any agreement or resolution shall not, as the result of the Ordinance or this Agreement, be deemed in any manner, directly or indirectly or contingently, to obligate the County and Participating Municipalities, 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 9. Program Requirements:

The Parties agree that the PACE Program to be offered in the unincorporated County and Participating Municipalities will be governed by the Ordinance, the PACE Statute, applicable Federal law, applicable state law, and this Agreement, including the following additional program requirements:

- a. The PACE Local Government will inform every property owner that by law these non-ad valorem assessments must be collected pursuant to Sections 163.08, 197.3632, and 197.3635, Florida Statutes and that the assessment shall not be subject to discount for early payment; and, are not imposed by the County, any Participating Municipality, the property appraiser, or the tax collector, and that they are levied and imposed solely by the PACE Local Government, and only then upon voluntary application of the private property owner as expressly authorized by the PACE Statute and the Ordinance. The following statement, in substantially the following form, must be included on the Notice to Property Owner: **The Assessment will appear on the property tax bill, and will not be eligible for early payment discounts.**
- b. The PACE Local Government will also inform every property owner that the PACE Local Government will share data pertaining to the details of their PACE project and assessment with government entities for the purpose of evaluating program demand, benefits, and consumer protections consistent with applicable Federal and state law. An option for the property owner to opt out of sharing personal data may be provided, but they must be informed that data will still be provided in aggregate

format and on an individual level as necessary for the purposes of the assessment, TRIM notice, and property tax bill.

- c. The PACE Local Government shall not approve any PACE Assessment on properties that are subject to a reverse mortgage.
- d. The PACE Local Government shall include in their contractor Code of Conduct a requirement that approved contractors must maintain proof of their license/certification, insurance, and business tax receipts (occupational license) and provide to Property Owners if requested. The PACE Local Government must also give the property owner the document outlining the complaint process covering the PACE program and participating contractors or a summary sheet including a web link to the full document.
- e. Recognizing that there may be ongoing consequences and risk that some lenders may require full repayment of the special assessments upon resale or refinancing, in addition to the disclosures and protections required in the Ordinance, the PACE Local Government shall provide assistance to any Property Owner that faces such a requirement.

Section 10. Opinion of Bond Counsel. As a condition precedent to the authorization to operate a PACE Program in Sarasota County under the terms of this Agreement, the PACE Local Government shall deliver to the County an "Opinion of Bond Counsel," within 30 days of execution of this Agreement, stating that, based on the counsel's review of the bond validation judgment and the underlying bond documents of the PACE Local Government, the PACE Program's structure complies with the bond validation judgment and the underlying bond documents. The PACE Local Government acknowledges that the County is relying on the Opinion of Bond Counsel as a material inducement due the County's decision to enter into this Agreement.

Section 11. Boundaries. To help finance the costs of Qualifying Improvements for those individual properties, the PACE Local Government is authorized, on a non-exclusive basis, to levy voluntary, non-ad valorem special assessments on the benefitted properties within the geographic boundaries of unincorporated County and within the Participating Municipalities, pursuant to their respective opt-in ordinance or resolution. Those properties receiving financing for Qualifying Improvements shall be assessed, in accordance with the PACE Statute, the Ordinance, the opt-in ordinance or resolution of each Participating Municipality 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 the PACE Local Government's Program until such time the financial obligations owed pursuant to all properly signed PACE Financing Agreements have been satisfied, released, or otherwise resolved.

Section 12. Financing Agreement. The Parties agree that the PACE Local Government may enter into a PACE Financing Agreement, pursuant to the PACE Statute and the

Ordinance with property owner(s) who obtain financing through the PACE Local Government within the geographical boundaries of unincorporated County and Participating Municipalities. Notwithstanding any other provision in this Agreement, rates, fees and charges charged by or through the PACE Local Government shall not exceed those contained in Chapter 687, Florida Statutes.

Section 13. Responsibilities of the PACE Local Government; 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, and Participating Municipalities, shall apply to the officials, officers, agents or employees thereof when performing their respective functions and duties under the provisions of this Agreement.
- b. The County, Participating Municipalities, and the PACE Local Government are and shall be subject to the limitations of liability provided in Section 768.28, Florida Statutes, and any other relevant provisions of Florida law governing sovereign immunity. Nothing in this Agreement is intended to waive or alter the sovereign immunity of any of the Parties hereto including, but not limited to the express monetary limits of liability set forth in Section 768.28, Florida Statutes. Pursuant to the PACE Statute and this Agreement, the local governments who are either the incorporators or members of the PACE Local Government or any subsequently served or participating local government shall not be held jointly liable for the torts of the officers or employees of the PACE Local Government, or any other tort attributable to the PACE Local Government, and the PACE Local Government 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.
- c. To the extent provided by law, the PACE Local Government agrees to protect, defend, reimburse, indemnify and hold the County and Participating Municipalities, their 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 PACE Local Government, its agents, employees, or officials or anyone acting under its direction or control, or on its behalf in connection with or incident to the performance of this Agreement. The PACE Local Government'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 Participating Municipalities, its respective agents, servants, employees or officers, nor shall the liability limits set forth in Section 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, the PACE Local Government 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. The PACE Local Government is an independent local government. Neither the County, nor any Participating Municipality, who have authorized the PACE Local Government to implement the Program within its respective jurisdiction, shall in any manner be obligated to pay any debts, obligations or liabilities arising as a result of any actions of the PACE Local Government, its Board of Directors or any other agents, employees, officers or officials of the PACE Local Government. In addition, the PACE Local Government, its Board of Directors or any other agents, employees, officers or officials of the PACE Local Government shall have no authority or power to otherwise obligate either the County, or any Participating Municipalities within the County served by the PACE Local Government.

Section 14. Agreements with Tax Collector, Property Appraiser and Municipalities.

- a. The PACE Local Government acknowledges that the County has no authority to bind the County Tax Collector and the County Property Appraiser, and the PACE Local Government 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. The PACE Local Government also acknowledges that until an incorporated municipality in the County has adopted an ordinance or resolution authorizing the PACE Program to be implemented within its respective jurisdiction, the PACE Local Government shall have no authority to operate the Program within such municipality.
- b. As a condition precedent to the authorization to operate a PACE Program under the terms of this Agreement within Sarasota County, the PACE Local Government must enter into separate written agreements as required by Section 197.3632(2), Florida Statutes, for the reimbursement and compensation of tax collectors and property appraisers as prescribed by law.
- c. The PACE Local Government, not the County nor Participating Municipalities, is the local government imposing the subject non-ad valorem assessments and shall be solely responsible for compliance with all applicable law and all matters associated with origination, funding, financing, administration, and collection (in concert with the uniform method of collection set forth in Section 197.3632, Florida Statutes) of each of the resulting non-ad valorem assessments.

Section 15. Resale or Refinancing of a Property. The PACE Local Government 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 PACE Local Government agrees to provide written disclosure of this matter to all property owners that may utilize the Program, as outlined in the Ordinance.

Section 16. Reporting. In addition to the reporting requirements in the Ordinance, the PACE Local Government shall encourage participants conducting energy improvements to complete a utility information release form to enable reporting on their actual energy use and energy cost after completion of their respective project(s). For those participants that agree to do so, the PACE Local Government shall provide the PACE Program Coordinator with the signed release form as part of their quarterly metrics reporting. The PACE Local Governments shall encourage participants conducting hurricane improvements to agree to participate in an annual survey conducted by the County to collect information on insurance cost savings after completion of the project. If the PACE Local Government prefers, they can send the link that the county provides directly to the customers. The PACE Program Coordinator is authorized to defer these additional requirements for a term up to one year from the date of the Authorization Letter if the PACE Local Government demonstrates that it does not have the ability to comply as of the date of the Authorization Letter and that it would create an unreasonable hardship to immediately modify its procedures and documents to comply. The PACE Local Government shall provide the PACE Program Coordinator with a copy of the document(s) provided to the Property Owner to comply with this section. Full compliance will be required upon the expiration of any such deferral period unless the PACE Program Coordinator approves a further deferral or an alternative method of compliance.

Section 17. Responsive Communications. The PACE Local Government will promptly respond in writing to all written communications, including email, from the County. Such response shall be deemed prompt if made in a reasonable and complete manner within ten (10) days of receipt of any such written communication. This paragraph shall not be construed as containing any obligation for the County to receive complaints or concerns about the PACE Local Government's or its designee's performance, policies, systems, or procedures. The County will refer all such complaints or concerns directly to the PACE Local Government for a response. The PACE Local Government shall follow the customer service procedures as outlined in the Ordinance.

Section 18. Term of Agreement: Duration of Agreement.

- a. The term of this Agreement shall commence upon recording of this Agreement with the Sarasota County Clerk of Court.
- b. Either party may at any time terminate this Agreement upon sixty (60) days written notice. Provided, however, no termination of this Agreement shall preclude the PACE Local Government from exercising its power or authority to collect any of the assessments owed pursuant to a properly signed and performed PACE Financing Agreement. The party that terminates this Agreement will be responsible for filing a notice of such termination with the Sarasota County Clerk of Court.

c. The applicable provisions, authority and responsibility under this Agreement reasonably necessary to carry out the remaining aspects of the Program and responsibilities of the PACE Local Government then underway shall remain in effect and survive any termination until such time as those obligations and all associated remaining responsibilities of the PACE Local Government are fulfilled (including, but not limited to, the collection of assessments in due course).

Section 19. Consent. This Agreement and the Ordinance shall be considered the County's consent for the PACE Local Government to implement the PACE Program within unincorporated County pursuant to the PACE Statute and the Ordinance.

Section 20. 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: Sarasota County  
ATTN: County Administrator  
1660 Ringling Blvd.  
Sarasota, Florida 33236

With a copy to: Sarasota County  
ATTN: County Attorney  
1660 Ringling Blvd., Rm. 250  
Sarasota, Florida 33236

PACE Local  
Government:  
Todd Wodraska  
Special District Services  
2501A Burns Road  
Palm Beach Gardens, FL 33410

With a copy to:  
Keith Davis, Esq  
Davis & Ashton, P.A.  
701 Northpoint Parkway, Suite 205  
West Palm Beach, Florida 33407

Section 21. 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 with the same formality and of equal dignity herewith by the Parties hereto.

Section 22. 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 23. Merger. This 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 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 24. 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 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. 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 27. Severability. In the event a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective.

Section 28. Administrator Indemnification: Additional Insured.

a. The PACE Local Government will promptly request and obtain from its administrator, Renew Financial Group, LLC, and any subsequent administrator, a separate indemnification agreement as to its actions and activities on behalf of the PACE Local Government concerning all of the subject matter of this Agreement for the benefit of the County and Participating Municipalities. The form of the indemnification agreement must be approved by the County Attorney's Office, prior to the administrator assuming responsibilities for the PACE Local Government pursuant to this agreement.

b. The PACE Local Government shall promptly request and obtain from its administrator, Renew Financial Group, LLC and any subsequent administrator, and shall provide the County with a copy of a certificate showing the County as an additional insured for the coverages the PACE Local Government requires of its administrator, which shall be at a minimum:

|                       |             |
|-----------------------|-------------|
| Worker's Compensation | Statutory   |
| Employer's Liability  | \$1,000,000 |

|                              |   |
|------------------------------|---|
| Commercial General Liability | \$1,000,000 per occurrence<br>\$1,000,000 aggregate |
| Commercial Auto Liability    | \$1,000,000 combined single limit                   |
| Professional Liability (E&O) | \$1,000,000 per occurrence<br>\$2,000,000 aggregate |

- c. The statement or certificate evidencing the County is named as an additional insured will include a standard insurance industry statement prohibiting cancellation, termination, or modification of the policy or a reduction of coverage without first giving the County (as an additional insured) at least ten (10) days prior written notice of such proposed action.

Section 29. Insurance by the PACE Local Government. Without waiving the right to sovereign immunity as provided by Section 768.28, Florida Statute, the PACE Local Government acknowledges that it is self-insured for General Liability and Automobile Liability under Florida sovereign immunity statutes with limits of liability at \$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 the PACE Local Government maintains third-party Commercial General Liability and Business Auto Liability in lieu of exclusive reliance of self-insurance under Section 768.28 Florida Statute, the PACE Local Government shall agree to maintain said insurance policies at limits not less than \$500,000 combined single limit for bodily injury or property damage. The PACE Local Government agrees to maintain or to be self-insured for Workers' Compensation & Employer's Liability insurance in accordance with Section 440, Florida Statutes. When requested, the PACE Local Government shall agree to provide Certificate of Insurance evidencing the insurance coverage requirements set forth herein or an affidavit of self-insurance demonstrating the insurance coverage required herein. Compliance with the foregoing requirements shall not satisfy, modify or otherwise relieve the PACE Local Government of its indemnification liability and obligations under this Agreement.

Section 30. Dispute Resolution. In the event of a dispute between the PACE Local Government and the County under this Agreement, the PACE Local Government Manager and the County Administrator, or their respective designees, shall review such dispute and options for resolution. The joint decision of the PACE Local Government Manager and the County Administrator regarding the dispute shall be final. In the event the PACE Local Government Manager and County Administrator are unable to agree, then the matter shall be referred to the respective governing bodies, who may jointly elect to hold a joint meeting in Sarasota County. This process shall substitute for the dispute resolution process set forth in Chapter 164 of the Florida Statutes.

Section 31. 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 Sarasota County, Florida. In any such action, Florida law shall apply. BY ENTERING INTO THIS AGREEMENT, THE PACE LOCAL GOVERNMENT AND COUNTY

R2018-137

HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT. IF THE PACE LOCAL GOVERNMENT 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, THE PACE LOCAL GOVERNMENT SHALL BE LIABLE FOR THE REASONABLE ATTORNEYS' FEES AND COSTS OF THE COUNTY IN CONTESTING THE REQUEST FOR JURY TRIAL, AND SUCH AMOUNTS SHALL BE AWARDED BY THE COURT IN ADJUDICATING THE MOTION.

- Section 32. Recording; Effective Date. This Agreement shall be recorded by the PACE Local Government with the Clerk of the Circuit Court in Sarasota County, Florida and shall become effective upon such filing.
- Section 33. 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 34. Equal Opportunity Provision. Neither the PACE Local Government nor its respective, agents, successors, or assigns shall practice discrimination on the basis of race, age, color, ancestry, disability, national origin, religion, age, familial status, marital status, sex, gender, sexual orientation, gender identity and expression, or genetic information under any activity carried out by the performance of this Agreement.
- Section 35. Captions. The captions and section designations herein set forth are for convenience only and shall have no substantive meaning.

[signature page follows]

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.

ATTEST:  
KAREN E. RUSHING, Clerk of  
Circuit Court and Ex-Officio Clerk of  
the Board of County Commissioners of  
Sarasota County, Florida

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

BOARD OF COUNTY COMMISSIONERS  
OF SARASOTA COUNTY, FLORIDA

By: \_\_\_\_\_  
Chair

Date: \_\_\_\_\_

Approved as to form and correctness:

By: \_\_\_\_\_  
County Attorney

ATTEST:

By: [Signature]  
Secretary

Florida Green Finance Authority

By: [Signature]  
Chair

Date: 5/29/18

Approved as to form and  
legal sufficiency:

By: [Signature]  
Keith Davis, Esq  
Attorney for Florida Green Finance Authority

[SIGNATURE PAGE TO INTERLOCAL AGREEMENT]

**Attachment B**

**INDEMNIFICATION AGREEMENT BETWEEN RENEW FINANCIAL GROUP LLC, AS ADMINISTRATOR FOR THE FLORIDA GREEN FINANCE AUTHORITY, AND SARASOTA COUNTY, FLORIDA**

This Indemnification Agreement (the "Agreement") is entered into May 24, 2018 by and between Renew Financial Group LLC ("Renew"), administrator for the Florida Green Finance Authority ("FGFA"), and Sarasota County, a political subdivision of the State of Florida ("County") (collectively, the "Parties").

**WHEREAS**, Section 163.08, Florida Statutes, ("the PACE Statute") authorizes Local Governments to finance defined Qualifying Improvements with payments being secured through the use non-ad valorem assessments; and

**WHEREAS**, FGFA is a separate legal entity created pursuant to Section 163.01(7), Florida Statutes, for the purposes of financing Qualifying Improvements under the PACE Statute; and

**WHEREAS**, Renew is the administrator for FGFA's PACE Program in the County; and

**WHEREAS**, as a material inducement to and condition of the County allowing FGFA to operate a PACE program within Sarasota County, FGFA is required to protect, defend, reimburse, indemnify and hold the County and any Participating Municipalities free and harmless from and against all claims related to FGFA's operation of a PACE Program in Sarasota County; and

**WHEREAS**, as a material inducement to and condition of the County allowing FGFA to operate a PACE program within Sarasota County, FGFA's Administrator is also required to protect, defend, reimburse, indemnify and hold the County and any Participating Municipalities free and harmless from and against all claims related to the Administrator's actions related to its actions and activities the operation of a PACE Program; and

**NOW, THEREFORE**, the Parties hereby agree as follows:

1. The foregoing recitals are true and correct and incorporated into this Agreement.
2. **Indemnification.** Renew shall protect, defend, reimburse, indemnify and hold the County, its officers, employees, agents and instrumentalities (hereinafter referred to as the "Indemnified Parties") free and harmless at all times from and against any and all suits, actions, legal or administrative proceedings, claims, demands, damages, liabilities, losses, attorneys' fees, costs of defense, or other expense of whatsoever kind or nature (collectively a "Claim") which the Indemnified Parties may incur as a result of claims, demands, suits, causes of action or proceedings of any kind or nature arising out of, relating to, resulting from, or in any way connected with the actions or inactions of Renew, its employees, agents, servants,

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partners, principals, administrators, subcontractors, or agents in operation of a PACE Program in Sarasota County. Renew shall pay all Claims and losses in connection therewith and shall investigate and defend all Claims, suits or losses in connection therewith and shall investigate and defend the Indemnified Parties against all Claims, suits or actions of any kind or nature, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue therefrom. Renew expressly understands and agrees that the provisions of the insurance required below shall in no way limit, modify or satisfy the responsibility to indemnify, keep and save harmless and defend the Indemnified Parties as herein provided. In the event any Claim is brought against an Indemnified Party, Renew shall, upon written notice from an Indemnified Party or FGFA, 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.

3. Insurance. Prior to the commencement of any efforts related to the operation of a PACE Program in Sarasota County, Renew shall provide the County with a copy of a certificate showing the County as an additional insured for under all policies the coverages the PACE Local Government requires of its administrator, which shall be at a minimum:

|                              |                                   |
|------------------------------|-----------------------------------|
| Worker's Compensation        | Statutory                         |
| Employer's Liability         | \$1,000,000                       |
| Commercial General Liability | \$1,000,000 per occurrence        |
|                              | \$1,000,000 aggregate             |
| Commercial Auto Liability    | \$1,000,000 combined single limit |
| Professional Liability (E&O) | \$1,000,000 per occurrence        |
|                              | \$2,000,000 aggregate             |

4. The Administrator shall provide County with at least 5 days advanced written notice of any suspension, cancellation, or reduction in limits of any insurance policy required by this Agreement, and shall promptly procure a replacement policy in full conformance with the requirements of this Agreement.
5. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. The parties agree that the exclusive venue for any lawsuit arising from, related to, or in conjunction with this Agreement shall be in the state courts in and for Sarasota County. The Parties hereby expressly agree that in the event of litigation regarding this Agreement, any and all rights to jury trial are waived.
6. The term of this Agreement shall begin upon execution by both Parties and continue so long as Renew is conducting activities related to the operation of a PACE Program in Sarasota County.

**IN WITNESS WHEREOF**, the Parties hereto have made and executed this Agreement each on this date noted below.

ATTEST:

KAREN E. RUSHING, Clerk of the  
Circuit Court and Ex-Officio Clerk of  
the Board of County Commissioners of  
Sarasota County, Florida

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

Approved as to form and correctness.


By: \_\_\_\_\_  
County Attorney

Board of County Commissioners of  
Sarasota County, Florida

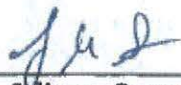
By: \_\_\_\_\_  
Chair

Date: \_\_\_\_\_

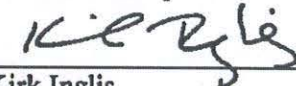
ATTEST:

By:   
Sachin Adarkar  
General Counsel & Secretary

Approved as to form and legal  
sufficiency.

By:   
Julianne Spears  
Counsel to Renew

Renew Financial Group LLC

By:   
Kirk Inglis  
Chief Executive Officer

Date: May 24, 2018