

Grants & Contracts - Transmittal Memo

DATE: August 24, 2018

FROM: Purchasing Division, Contracts

TO: Sean McLendon

CONTRACT #: 10974

VENDOR: Green Corridor Property Assessment Clean Energy (PACE) District

DESCRIPTION: #10974 Green Corridor Property Assessment Clean Energy (PACE) District with negotiated enhanced consumer protections ILA and Indemnification Agreements

APPROVED BY: Board of County Commissioners

APPROVAL DATE: 8/14/2018

RECEIVED ON: August 24, 2018

TERM START: 8/14/2018

TERM END: 10/1/2021

AMOUNT:

RFP/BID #:

POR #
(ENCUMBERANCE):

ACTIONS REQUIRED:

Please forward a copy to the vendor & retain a copy for your files.

**FIRST AMENDED AND RESTATED INTERLOCAL AGREEMENT BETWEEN THE
GREEN CORRIDOR PROPERTY ASSESSMENT CLEAN ENERGY
(PACE) DISTRICT AND ALACHUA COUNTY**

This First Amended and Restated Interlocal Agreement (the "First Amendment"), made and entered into this 14th day of August 202018, by and between Alachua County, a charter county and political subdivision of the State of Florida, by and through its Board of County Commissioners, hereinafter referred to as "County," and Green Corridor Property Assessment Clean Energy (PACE) District, hereinafter referred to as the "District" (collectively referred to as "Parties").

WITNESSETH:

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, authorizes financing of qualifying improvements through agreements for property to be subject to a voluntary, non-ad valorem assessment process as the repayment mechanism, commonly known as PACE; and

WHEREAS, Section 163.08, Florida Statutes, provides that a local government may partner with one or more local governments to provide and finance qualifying improvements; and

WHEREAS, the District was organized per Section 163.01(7), Florida Statutes, in order to finance qualifying improvements in accordance with Section 163.08, Florida Statutes, as a means of implementing and financing a qualifying improvements program for energy and water conservation and efficiency, renewable-energy and wind-resistance improvements, and to provide additional services consistent with law; and

WHEREAS, on December 8, 2015, the County adopted Resolution 15-130, agreeing to join multiple PACE districts, pursuant to Section 163.08, Florida Statutes, in order to finance qualifying improvements in the County; and

WHEREAS, on December 8, 2015, the County entered into an Agreement with the District, in which the County became a member of the District in order to facilitate the financing of qualifying improvements for properties located within the County; and

WHEREAS, the County would like to renew its relationship with the District and provide for additional consumer protections; and

WHEREAS, the Parties have determined that it shall serve the public interest to enter into this First Amendment to make the most efficient use of their powers.

NOW, THEREFORE, in consideration of the terms and conditions, promises, and covenants set forth in this First Amendment, the Parties agree that the December 8, 2015 Agreement between the District and the County is amended in its entirety as follows:

1. Term. This First Amendment shall commence on the 14 day of August, 2018 and continue for a period of three years, terminating on 08/13/2021. The County retains the option to terminate this First Amendment for any reason prior to the end of this term in accordance with Paragraph 15, below.
2. Purpose. The purpose of this First Amendment is to renew and continue the County's membership in the District and to authorize the District, or its agent, to finance qualifying improvements, as defined in Section 163.08, Florida Statutes, ("PACE Statute") for property owners in the County.
3. Qualifying Improvements. As used in this First Amendment, the term "qualifying improvements" has the meaning provided in the PACE Statute, including any energy conservation and efficiency improvement, any renewable energy improvement, and any wind resistance improvement.
4. The District. The District was established by an Interlocal Agreement among the Town of Cutler Bay, Florida; the Village of Palmetto Bay, Florida; the Village of Pinecrest, Florida; the City of South Miami, Florida; Miami Shores Village, Florida; the City of Coral Gables, Florida; and the City of Miami, Florida (Miami-Dade County Official Record Book 28217, Pages 312-333) (hereinafter "Interlocal Agreement"). Through this First Amendment, the jurisdiction of the District is expanded to include the area of the County. The County is renewing its membership in the District and establishing standards for the District's Third Party Administrator ("Provider") when operating within the County.
5. Interlocal Agreement. By renewing its membership with the District, the County accepts and incorporates the terms of the District's Interlocal Agreement, attached hereto as **Exhibit A**. This First Amendment provides additional terms applicable only to the relationship between the County and the District and the financing of qualifying improvements for property owners in the County. To the extent that there are inconsistencies between the provisions of this First Amendment and the District's Interlocal Agreement, then the more restrictive provision shall govern within the jurisdiction of Alachua County.
6. Non-Exclusive. This First Amendment is non-exclusive, meaning the County specifically reserves the right to participate with or join any other entity providing a similar program or create its own program under the PACE Statute.
7. Consumer Protection. As a condition precedent to operating within the County and financing qualifying improvements for property owners within the County, the District and the Provider agree to comply with and share with citizens seeking PACE services the following enhanced consumer protection measures:

- a. Alachua County – Enhanced Consumer Protections:

- i. **Scope of Financing Agreement**

1. A financing agreement may only be used for qualifying improvements including energy conservation and efficiency, renewable energy, and wind resistance improvements as defined by Section 163.08, Florida Statutes, as may be amended by law.

ii. Consumer Eligibility

1. For PACE financing and qualifying improvements on residential property within the County, the District may finance qualifying improvements on Residential Properties provided they comply with the following consumer protection criteria inclusive of all eligibility criteria listed in the PACE Statute and all future amendments thereto:
 - a. Without the consent of the holders or loan servicers of any mortgage encumbering or otherwise secured by the property, the total amount of any non-ad valorem assessment for a property under the PACE Statute may not exceed twenty percent (20%) of the just value of the property as determined by the County Property Appraiser, excepted as otherwise provided by statute;
 - b. All property taxes and other assessments levied on the property tax bill have been paid and have not been delinquent for the preceding three years, or the property owner's period of ownership, whichever is less;
 - c. There are no involuntary liens in excess of \$1,000, including but not limited to construction liens on the property;
 - d. No notices of default or other evidence of property-based debt delinquency have been recorded during the preceding three years, or the property owner's period of ownership, whichever is less;
 - e. All mortgage debt on the property is current and not delinquent;
 - f. All mortgage-related debt on the underlying property may not exceed 90% of the property's fair market value ("FMV"); and
 - g. The total mortgage-related debt on the underlying property plus the PACE program financing may not exceed the FMV of the property.
2. For PACE financing and qualifying improvements on non-residential properties within the County, the District may finance Qualifying Improvements provided they comply with the requirements set forth in the PACE Statute, and all future amendments thereto.

iii. Fair Market Value

1. Fair market value shall mean the value of real property determined by the Alachua County Property Appraiser, by a credentialed commercial property appraiser or licensed realtor, or by an automated valuation service or model from a reputable third-party source.

iv. Disclosure Requirements

1. In addition to any disclosure requirements in the PACE Statute, the District shall present to all participating property owners a separate, written notice disclosing the following ("Rights and Responsibilities Notice"):
 - a. The estimated total amount of the debt, including amount financed, fees, fixed interest rate, capitalized interest and the effective rate of the interest charged ("Annual Percentage Rate" or "APR");
 - b. A statement notifying property owners with an escrow or impound account to pay property taxes that their escrow payment will be adjusted to include the PACE assessment and that they should contact their lender to ensure that the escrow payments are adjusted accordingly;
 - c. For residential properties, that PACE agencies/authorities/districts may only offer fixed simple interest rates and payments that fully amortize the obligation. Variable or negative amortization financing terms are not permitted. Variable interest rates shall be allowed for commercial properties. Capitalized interest included in the original balance of a PACE financing does not constitute negative amortization;
 - d. The repayment process and terms, amounts and a schedule that fully amortizes the amount financed including the estimated annual PACE assessment;
 - e. That the PACE assessment will appear on the property owner's tax bill;
 - f. That there is no discount for paying the PACE assessment early;
 - g. The nature of the lien recorded and that of the PACE assessment will be collected in the same manner as real estate taxes. That failure to pay the PACE assessment may cause a tax certificate to be issued against the property, and that failure of payment thereof may result

in the loss of property subject to the PACE assessment, including homestead property, in the same manner as failure to pay property taxes;

- h. The specific improvements to be financed and installed and that such improvements and PACE assessment may or may not affect the overall value of the property;
 - i. A PACE assessment payment term that does not exceed the useful life of the improvements;
 - j. The District shall disclose the following to all participating property owners regarding prepayment of PACE assessments:
 - i. Information as to any accrued interest that may be due upon early payment;
 - ii. The right of pre-payment without penalty for residential projects;
 - iii. Notice that the property owner may be required to pay any PACE assessment in full at the time of refinance or sale of the property;
 - k. The 3 business-day right to cancel the financing for residential property owners; and
 - l. Renewable Energy Credits, carbon credits or any derivatives of similar nature, should a mechanism be created in law or regulation to formulate them, that come about as a consequence of the PACE assessment shall remain in the ownership of the District.
2. The Notice must be delivered to the property owner by the District or Provider and must be signed and dated by the property owner prior to or contemporaneously with the property owner's signing of any legally enforceable documents under the PACE program. The property owner and the PACE District or Provider must keep the signed Notice with the property owner's executed financing agreement.
 3. The PACE District or Provider shall record, or cause to be recorded, the financing agreement or a summary memorandum of the financing agreement, in accordance with Section 163.08(8), Florida Statutes.
 4. To the best of the District's ability, inform all participating property owners of generally available rebates, credits, and incentives available for the project(s) completed pursuant to the PACE Statute and this First Amendment and apply those rebates, credits, and incentives received for the project(s) to defray the project costs;
 5. Provide all participating property owners with a copy of the enhanced consumer protections included in this First

Amendment, titled "Rights and Responsibilities Notice of
Property Owners and PACE Providers".

- b. Verification. The District may not levy a non-ad valorem assessment on a property until the property owner verifies, in writing, that the qualifying improvement has been satisfactorily installed.
- 8. Liability. The Parties are each individually and separately liable and responsible for the actions of its own officers, agents, governing bodies, and employees in the performance of their respective obligations under this First Amendment. Except as specified herein, the Parties shall each individually defend any action or proceeding brought against their respective agency pursuant to, or arising from, this First Amendment. The Parties are individually responsible for all of their respective costs, attorneys' fees, expenses, and liabilities incurred as a result of any claims, demands, suits, actions, damages, and causes of action, including the investigation or defense thereof, arising out of, or related to, this First Amendment.
- 9. Responsibilities of Providers. As a condition to operating within the County, the Provider, when acting as the District's agent, shall perform the following tasks associated with the District's work:
 - a. Engage, educate, and follow-up with all District or Provider contractors performing work in Alachua County regarding the consumer protections afforded under this First Amendment and any processes for project approval or payment requirements;
 - b. Take appropriate and proportional action up to and including dismissal of any contractor who does not comply with State or District insurance or licensing requirements, who inaccurately or deceptively markets the PACE program, or who performs faulty or incomplete upgrades authorized under this First Amendment;
 - c. The financing term may not exceed the useful life of the installed qualifying improvements;
 - d. Apply interest rates based on the repayment term, or as negotiated with the capital provider, at a fixed rate;
 - e. Verify the projected energy savings, if applicable, of any bid summaries provided with a project application and provide a detailed disclosure of the estimated "useful life" or any upgrades provided and the repayment term of the assessment;
 - f. Assist the property owner in providing to the holders or loan servicers of any existing mortgages encumbering or otherwise secured by the property a notice of the property owner's intent to enter into a financing agreement together with

the maximum principal amount to be financed and the maximum annual assessment necessary to repay that amount.

10. Carbon or Similar Credits. The District retains the right to any carbon credits, or credit in an equivalent program, earned or received due to upgrades or projects provided by the District or Provider pursuant to this First Amendment or the PACE Statute.

11. Indemnification.

- a. To the extent provided by law, the District agrees to protect, defend, reimburse, indemnify and hold the County, its agents, employees, and elected officers ("Indemnified Parties") 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") arising out of or caused by any direct or indirect act, omission, or fault, whether active or passive, of the District or the Provider, of anyone acting under their direction or control, or on their behalf in connection with or incident to the performance of this First Amendment. The District'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.
- b. The District will promptly request and obtain from its Provider, and any subsequent provider, a separate indemnification agreement as to its actions and activities on behalf of the District concerning all of the subject matter of this First Amendment for the benefit of the County (**Exhibit B**).
- c. Nothing in this First Amendment constitutes a waiver by the County or by the District of its sovereign immunity or the liability limits set forth in 768.28, Florida Statutes.
- d. Nothing in this First Amendment 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 District, 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.

12. Notice. Except as otherwise provided in this First Amendment, any notice of default or termination from either the County or the District must be in writing and sent by

certified mail, return receipt requested, or by personal delivery with receipt. For purposes of all notices, District and County representatives are:

If to Green Corridor:

Paul Winkeljohn, Executive Director
Green Corridor
5385 Nob Hill Rd.
Sunrise, FL 33351

If to County:

County Manager
12 SE First Street, Second Floor
Gainesville, FL 32601

With a Copy to:

County Attorney
12 SE First Street, Second Floor
Gainesville, FL 32601

13. Agreements with Tax Collector. The District acknowledges that the County has no authority to bind the County Tax Collector and the District will be required to enter into separate agreement(s) therewith, to establish the fees (if any) to be charged by the Tax Collector for the collection or handling of the District's non-ad valorem assessments.
14. Records. The Parties shall each maintain their own respective records and documents associated with this First Amendment in accordance with the requirements for records retention set forth in Chapter 119, Florida Statutes.
15. Termination. A Party may unilaterally terminate this First Amendment, without cause, with 30 calendar days' written notice to the other Parties. Termination of this First Amendment is prospective only and may not be interpreted to preclude another Party from exercising or satisfying its existing rights at the time of termination. Notwithstanding termination of this First Amendment or notice of a change in boundaries by the County, those properties that have received financing for qualifying improvements shall continue to be a part of the District, until such time that all outstanding debt has been satisfied.
16. Law and Venue. This First Amendment is governed in accordance with the laws of the State of Florida. Venue for any disputes or causes of action arising out of this First Amendment is in Alachua County.
17. Severability. Paragraphs 8 and 11 are essential and indivisible provisions of this First Amendment and must be interpreted to provide the broadest protection to the County. If either paragraphs 8 or 11 are declared void by a court of law, then the entire First Amendment shall be deemed void. If any other provision of this First Amendment is declared void by a court of law, all other provisions will remain in full force and effect.
18. Non-waiver. The failure of any party to exercise any right in this First Amendment may not be considered a waiver of such right.

19. Attachments. All attachments to this First Amendment are incorporated into and made part of this First Amendment by reference.
20. Construction. This First Amendment may not be construed more strictly against one party than against the other merely by virtue of the fact that it may have been prepared by one of the Parties. The Parties recognize that all Parties have substantially contributed to the preparation of this First Amendment.
21. Counterparts. This First Amendment may be executed in any number and by the different Parties hereto on separate counterparts, each of which when so executed shall be deemed to be an original, and such counterparts shall together constitute but one and the same instrument.
22. Amendments. The Parties may not amend, modify, or alter the terms or conditions set forth herein unless the amendment, modification, or alteration is contained in a written document, executed by the Parties with the same formalities as this First Amendment.
23. Entire Agreement. This First Amendment constitutes the entire agreement for the County's membership in the District and the County's authorization for the District to perform services within Alachua County pursuant to the PACE Statute and supersedes all prior written or oral agreements, understandings, or representations.
24. Effective Date. This First Amendment is effective on the date executed by all Parties.

IN WITNESS WHEREOF, the Parties hereto subscribe their names to this First Amendment between the GREEN CORRIDOR PROPERTY ASSESSMENT CLEAN ENERGY (PACE) DISTRICT and ALACHUA County by their duly authorized officers.

ATTEST:

GREEN CORRIDOR PROPERTY
ASSESSMENT CLEAN ENERGY (PACE)
DISTRICT

By: 

District Secretary

By: 

Paul Winkeljohn, Executive Director

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

By: 

Weiss Serota Helfman Cole & Bierman P.L.
District Attorney

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF ALACHUA COUNTY, FLORIDA

By: 

J.K. "Jess" Irby, Clerk of the Court

By: 

Lee Pinkoson, Chair

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

By: 

County Attorney

Exhibit A



CFN 2012R0550022
DR Bk 28217 Pgs 0312 - 3331 (22pgs)
RECORDED 08/06/2012 12:20:13
HARVEY RUVIN, CLERK OF COURT
MIAMI DADE COUNTY, FLORIDA

**AMENDED AND RESTATED¹
INTERLOCAL AGREEMENT BETWEEN THE TOWN OF
CUTLER BAY, VILLAGE OF PALMETTO BAY, VILLAGE OF
PINECREST, CITY OF SOUTH MIAMI, MIAMI SHORES VILLAGE, CITY OF CORAL
GABLES & CITY OF MIAMI**

This Amended and Restated Interlocal Agreement (the "Interlocal Agreement") is entered into between the Town of Cutler Bay, Florida, a Florida municipal corporation; Village of Palmetto Bay, Florida, a Florida municipal corporation; Village of Pinecrest, a Florida municipal corporation; City of South Miami, a Florida municipal corporation; Miami Shores Village, a Florida municipal corporation; City of Coral Gables, a Florida municipal corporation, and the City of Miami, a Florida municipal corporation (Collectively, the "Parties").

RECITALS

WHEREAS, Section 163.01, Florida Statutes, the "Florida Interlocal Cooperation Act of 1969," authorizes local government units to enter into interlocal agreements for the mutual benefit of governmental units; and

WHEREAS, Section 163.01 (7), Florida Statutes, allows for the creation of a "separate legal entity" constituted pursuant to the terms of the interlocal agreement to carry out the purposes of the interlocal agreement for the mutual benefit of the governmental units; and

WHEREAS, the Parties desire to enter into an interlocal agreement creating a separate legal entity entitled the Green Corridor Property Assessment Clean Energy (PACE) District, hereinafter referred to as the "District;" and

WHEREAS, Section 166.021, Florida Statutes, authorizes the Parties to exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Section 163.08, Florida Statutes, provides that a "local government," defined as a county, municipality, a dependent special district as defined in Section 189.403, Florida Statutes, or a separate legal entity created pursuant to Section 163.01(7), Florida Statutes may finance energy related "qualifying improvements" through voluntary assessments; and

¹ This Interlocal Agreement restates and amends an interlocal agreement approved by the Town of Cutler Bay, Village of Palmetto Bay, Village of Pinecrest, and City of South of Miami, which was not recorded and thus never became effective. Therefore, this Interlocal Agreement, upon recordation, shall serve as the Interlocal Agreement establishing the Green Corridor Property Assessment Clean Energy (PACE) District created pursuant to Section 163.01(7), Florida Statutes.

WHEREAS, Section 163.08, Florida Statutes, provides that improved property that has been retrofitted with energy-related qualifying improvements receives the special benefit of alleviating the property's burden from energy consumption and assists in the fulfillment of the state's energy and hurricane mitigation policies; and

WHEREAS, Section 163.08(5), Florida Statutes, provides that local governments may enter into a partnership with one or more local governments for the purpose of providing and financing qualifying improvements; and

WHEREAS, the Parties to this Interlocal Agreement have expressed a desire to enter into this Interlocal Agreement in order to authorize the establishment of the District as a means of implementing and financing a qualifying improvements program within the District; and

WHEREAS, the Parties have determined that it is necessary and appropriate to create the District and to clarify various obligations for future cooperation between the Parties related to the financing of qualifying improvements within the District; and

WHEREAS, the Parties agree and understand that each member of the District will have complete control over the administration, governance, and implementation of their own PACE program, which includes, but is not limited to, the ability to review and approve program documents, marketing strategies, and determining eligible property types and improvements; and

WHEREAS, the Parties have determined that it shall serve the public interest to enter into this Interlocal Agreement to make the most efficient use of their powers by enabling them to cooperate on a basis of mutual advantage to provide for the financing of qualifying improvements within the District.

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

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

Section 2. Purpose. The purpose of this Interlocal Agreement is to consent to and authorize the creation of the District, pursuant to Section 163.08, Florida Statutes in order to facilitate the financing of qualifying improvements for property owners within the District. The District shall be a separate legal entity, pursuant to Section 163.01(7), Florida Statutes.

Section 3. Qualifying Improvements. The District shall allow the financing of qualifying improvements as defined in Section 163.08, Florida Statutes.

Section 4. Enabling Ordinance or Resolution. The Parties to this Interlocal Agreement agree to approve and keep in effect such resolutions and ordinances as may be necessary to approve, create and maintain the District. Said ordinances and resolutions shall include all of the provisions as provided for in Sections 163.01 and

163.08, Florida Statutes, for the creation of a partnership between local governments as a separate legal entity. The District shall be created upon the execution of this Interlocal Agreement by the Parties hereto and the adoption of an ordinance or resolution of support by the Parties establishing the District. Additional local governments may join in and enter into this Interlocal Agreement by approval of two-thirds of the members of the Board (as defined in Section 6 below), execution of this Interlocal Agreement and adoption of an ordinance or resolution of support establishing the District.

Section 5. District Boundaries. The boundaries of the District shall be the legal boundaries of the local governments that are Parties to this Interlocal Agreement. As contemplated in this Interlocal Agreement, the District will levy voluntary assessments on the benefitted properties within the boundaries of the District to help finance the costs of qualifying improvements for those individual properties. Upon petition by the landowners of individual properties desiring to be benefitted, those properties receiving financing for qualifying improvements shall be assessed from time to time, in accordance with the applicable law. Notwithstanding a Parties termination of participation within this Interlocal Agreement, those properties that have received financing for qualifying improvements shall continue to be a part of the District, until such time that all outstanding debt has been satisfied.

Section 6. Governing Board of the District. The District shall be governed by a governing board (the "Board,") which shall be comprised of property owners or elected officials within the jurisdictional boundaries of the Parties to this Interlocal Agreement and one at large property owner from within the District. The maximum number of members of the Board serving at any given time shall be no more than seven (7) and the minimum number of members shall be not less than three (3). Notwithstanding the foregoing, the maximum number of members on the Board may be increased by a two-third majority vote of the Board. The initial Board shall serve for an initial four (4) year term and shall consist of one (1) representative appointed by each Party from within their jurisdictional boundaries. The initial at large member of the Board shall be appointed by a majority vote of the Board. All subsequent renewal terms shall be for four (4) years. Following the initial Board appointments, the Parties to this Interlocal Agreement shall nominate appointees to be elected to the Board by current sitting Board members. In the event a Board member is no longer eligible to serve on the Board, that Party to this Interlocal Agreement shall appoint a replacement to fulfill the remaining term of that member. The Board's administrative duties shall include all duties necessary for the conduct of the Board's business and the exercise of the powers of the District as provided in Section 11.

Section 7. Decisions of the Board. Decisions of the Board shall be made by majority vote of the Board. The Board may adopt rules of procedure. In the absence of the adoption of such rules of procedure, the fundamental parliamentary procedures of Roberts Rules of Order shall apply.

Section 8. District Staff and Attorney. The Town Manager of Cutler Bay shall serve as the staff to the District. In addition, the Town Attorney for Cutler Bay shall

serve as the counsel to the District. To the extent not paid by the Third Party Administrator of the District (the "TPA"), all of the District's staff and attorney expenses shall be borne by the Town of Cutler Bay. After the District has been operating for two years, the Board may choose to hire different District staff and/or Attorney. If the Board chooses to hire different District staff and/or Attorney, the Town of Cutler Bay will no longer pay for the staff and/or attorney expenses to the extent they are not paid by the TPA.

Section 9. Financing Agreement. The Parties agree that the District shall enter into a financing agreement, pursuant to Section 163.08(8), Florida Statutes, with property owner(s) who obtain financing through the District.

Section 10. Procurement. The Parties agree and understand that the initial procurement for the TPA for the District was performed by the Town of Cutler Bay in accordance with its adopted competitive procurement procedures (Request for Proposal 10-05). The Parties further agree and understand that the Town of Cutler Bay has selected Ygrene Energy Fund, Florida, LLC (the "Ygrene") as the initial TPA. The Town of Cutler Bay, on the behalf of the District, has entered into an Agreement between the Town of Cutler Bay and Ygrene, dated August 16, 2011, which was assigned to the District.

Section 11. Powers of the District. The District shall exercise any or all of the powers granted under Sections 163.01 and 163.08, Florida Statutes, as may be amended from time to time, which include, without limitation, the following:

- a. To finance qualifying improvements within the District boundaries;
- b. In its own name to make and enter into contracts;
- c. To employ agencies, employees, or consultants;
- d. To acquire, construct, manage, maintain, or operate buildings, works, or improvements;
- e. To acquire, hold, or dispose of property;
- f. To incur debts, liabilities, or obligations which do not constitute the debts, liabilities, or obligations of any of the Parties to this Interlocal Agreement;
- g. To adopt resolutions and policies prescribing the powers, duties, and functions of the officers of the District, the conduct of the business of the District, and the maintenance of records and documents of the District;
- h. To maintain an office at such place or places as it may designate within the District or within the boundaries of a Party to this Interlocal Agreement;
- i. To cooperate with or contract with other governmental agencies as may be necessary, convenient, incidental, or proper in connection with any of

the powers, duties, or purposes authorized by Section 163.08, Florida Statutes, and to accept funding from local and state agencies;

- j. To exercise all powers necessary, convenient, incidental, or proper in connection with any of the powers, duties, or purposes authorized in Section 163.08, Florida Statutes; and
- k. To apply for, request, receive and accept gifts, grants, or assistance funds from any lawful source to support any activity authorized under this Agreement.

Section 12. Quarterly Reports. A quarterly report of the District shall be completed in accordance with generally accepted Government Auditing Standards by an independent certified public accountant. At a minimum, the quarterly report shall include a balance sheet, statement of revenues, expenditures and changes in fund equity and combining statements prepared in accordance with generally accepted accounting principles. All records such as, but not limited to, construction, financial, correspondence, instructions, memoranda, bid estimate sheets, proposal documentation, back charge documentation, canceled checks, reports and other related records produced and maintained by the District, its employees and consultants shall be deemed public records, and shall be made available for audit, review or copying by a Party to this Interlocal Agreement upon reasonable notice.

Section 13. Term. This Interlocal Agreement shall remain in full force and effect from the date of its execution; provided, however, that any Party may terminate its involvement in the District and its participation in this Interlocal Agreement upon ten (10) days' written notice to the other Parties. Should a Party terminate its participation in this Interlocal Agreement, be dissolved, abolished, or otherwise cease to exist, the District and this Interlocal Agreement shall continue until such time as all remaining Parties agree to terminate.

Section 14. Consent. This Interlocal Agreement and any required resolution or ordinance of an individual Party shall be considered the Parties' consent to the creation of the District as required by Sections 163.01 and 163.08, Florida Statutes.

Section 15. Liability. The Parties hereto shall each be individually and separately liable and responsible for the actions of its own officers, agents and employees in the performance of their respective obligations under this Interlocal Agreement. Except as specified herein, the Parties shall each individually defend any action or proceeding brought against their respective agency pursuant to this Interlocal Agreement and shall be individually responsible for all of their respective costs, attorneys' fees, expenses and liabilities incurred as a result of any such claims, demands, suits, actions, damages and causes of action, including the investigation or the defense thereof, and from and against any orders, judgments or decrees which may be entered as a result thereof. The Parties shall each individually maintain throughout the term of this Interlocal Agreement any and all applicable insurance coverage required by Florida law for governmental entities. Nothing in this Agreement shall be construed

to affect in any way the Parties' rights, privileges, and immunities, including the monetary limitations of liability set forth therein, under the doctrine of "sovereign immunity" and as set forth in Section 768.28 of the Florida Statutes.

Section 16. Indemnification. The Parties agree that the TPA for the District shall always indemnify and hold harmless the Parties and the District. The Parties understand and acknowledge that the indemnification provisions included in Section 11 "Indemnification" of the Agreement between the Town of Cutler Bay and Ygrene, dated August 16, 2011, which will be assigned to the District, extend to all of the members of the District.

Section 17. Notices. Any notices to be given hereunder shall be in writing and shall be deemed to have been given if sent by hand delivery, recognized overnight courier (such as Federal Express), or it must be given 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 _____: See Attachment

With a Copy to: See Attachment

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

Section 19. Filing. It is agreed that this Interlocal Agreement shall be filed with the Clerk of the Circuit Court of Miami-Dade County, as required by Section 163.01(11), Florida Statutes.

Section 20. Joint Effort. The preparation of this Interlocal Agreement has been a joint effort of the Parties hereto and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the Parties than the other.

Section 21. Merger. This Interlocal Agreement incorporates and includes all prior negotiations, correspondence, agreements or understandings applicable to the matters contained herein; and the Parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Interlocal Agreement that are not contained in this document. Accordingly, the Parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements whether oral or written. It is further agreed that no change, amendment, alteration or modification in the terms and conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith by all Parties to this Interlocal Agreement.

Section 22. Assignment. The respective obligations of the Parties set forth in this Interlocal Agreement shall not be assigned, in whole or in part, without the written consent of the other Parties hereto.

Section 23. Records. The Parties shall each maintain their own respective records and documents associated with this Interlocal Agreement in accordance with the requirements for records retention set forth in Chapter 119, Florida Statutes.

Section 24. Governing Law and Venue. This Interlocal Agreement shall be governed, construed and controlled according to the laws of the State of Florida. Venue for any claim, objection or dispute arising out of the terms of this Interlocal Agreement shall be proper exclusively in Miami-Dade County, Florida.

Section 25. Severability. In the event a portion of this Interlocal Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective.

Section 26. Third Party Beneficiaries. This Interlocal Agreement is solely for the benefit of the Parties and no right or cause of action shall accrue upon or by reason, to or for the benefit of any third party not a formal party to this Agreement. Nothing in the Agreement expressed or implied is intended or shall be construed to confer upon any person or corporation other than the Parties any right, remedy, or claims under or by reason of this Interlocal Agreement or any of the provisions or conditions of this Agreement; and all of the provisions, representations, covenants, and conditions contained in this Agreement shall inure to the sole benefit of and shall be binding upon the Parties.

Section 27. Effective Date. This Interlocal Agreement shall become effective upon the execution by the Parties hereto and recordation in the public records of the applicable county.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the Parties hereto have made and executed this Interlocal Agreement on this 24th day of JULY, 2012.

ATTEST:

BY: 

Town Clerk

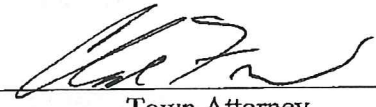
(Affix Town Seal)

Approved by Town Attorney
as to form and legal sufficiency

TOWN OF CUTLER BAY, a municipal
corporation of the State of Florida

BY: 

Town Manager


Town Attorney

Section 16. Indemnification. The Parties agree that the TPA for the District shall always indemnify and hold harmless the Parties and the District. The Parties understand and acknowledge that the indemnification provisions included in Section 11 "Indemnification" of the Agreement between the Town of Cutler Bay and Ygrene, dated August 16, 2011, which will be assigned to the District, extend to all of the members of the District.

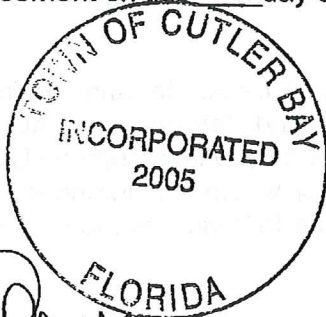
Section 17. Notices. Any notices to be given hereunder shall be in writing and shall be deemed to have been given if sent by hand delivery, recognized overnight courier (such as Federal Express), or it must be given by written certified U.S. mail, with return receipt requested, addressed to the Party 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 Cutler Bay: Town Manager
 Town of Cutler Bay
 10720 Caribbean Boulevard, Suite 105
 Town of Cutler Bay, Florida 33189

With a Copy to: Weiss Serota Helfman
 Pastoriza Cole & Boniske, P.L.
 2525 Ponce de Leon Boulevard
 Suite 700
 Coral Gables, Florida 33134

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

IN WITNESS WHEREOF, the Parties hereto have made and executed this Interlocal Agreement on this 27 day of July, 2012.



ATTEST:

BY: [Signature]

Town Clerk

(Affix Town Seal)

TOWN OF CUTLER BAY, a municipal corporation of the State of Florida

BY: [Signature]

Town Manager

Approved by Town Attorney
as to form and legal sufficiency

[Signature]
Town Attorney

ATTEST:

BY: [Signature]

Guido H. Inguanzo, Jr., CMC
Village Clerk

(Affix Town Seal)
Village

Approved by ^{Village} Town Attorney
as to form and legal sufficiency

VILLAGE OF PINECREST, a municipal corporation of the State of Florida

BY: [Signature]

Yocelyn Gallano Gomez, ICMA-CM
Village Manager

[Signature]
Village Attorney

"Indemnification" of the Agreement between the Town of Cutler Bay and Ygrene, dated August 16, 2011, which will be assigned to the District, extend to all of the members of the District.

Section 17. Notices. Any notices to be given hereunder shall be in writing and shall be deemed to have been given if sent by hand delivery, recognized overnight courier (such as Federal Express), or it must be given 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 Cutler Bay:

Town Manager
Town of Cutler Bay
10720 Caribbean Boulevard, Suite 105
Town of Cutler Bay, Florida 33189

With a Copy to:

Weiss Serota Helfman
Pastoriza Cole & Boniske, P.L.
2525 Ponce de Leon Boulevard
Suite 700
Coral Gables, Florida 33134

Village Manager/Village of Pine crest
12645 Pine crest Parkway
Pine crest, FL 33156

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

Section 19. Filing. It is agreed that this Interlocal Agreement shall be filed with the Clerk of the Circuit Court of Miami-Dade County, as required by Section 163.01(11), Florida Statutes.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Interlocal Agreement on this 31 day of July, 2012.



ATTEST:

TOWN OF CUTLER BAY, a municipal corporation of the State of Florida

BY: [Signature]

Town Clerk

BY: [Signature]

Town Manager

(Affix Town Seal)

Approved by Town Attorney
as to form and legal sufficiency

[Signature]
Town Attorney

ATTEST:

CITY OF SOUTH MIAMI, a municipal corporation of the State of Florida

BY: [Signature]

City Clerk

BY: [Signature]

City Manager

for CM 7/31/12

(Affix Town Seal)

Approved by City Attorney
as to form and legal sufficiency

[Signature]
City Attorney

Section 16. Indemnification. The Parties agree that the TPA for the District shall always indemnify and hold harmless the Parties and the District. The Parties understand and acknowledge that the indemnification provisions included in Section 11 "Indemnification" of the Agreement between the Town of Cutler Bay and Ygrene, dated August 16, 2011, which will be assigned to the District, extend to all of the members of the District.

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If to Cutler Bay:

Town Manager
Town of Cutler Bay
10720 Caribbean Boulevard, Suite 105
Town of Cutler Bay, Florida 33189

With a Copy to:

Weiss Serota Helfman
Pastoriza Cole & Boniske, P.L.
2525 Ponce de Leon Boulevard
Suite 700
Coral Gables, Florida 33134

CITY MANAGER
CITY OF SOUTH MIAMI
6130 SUNSET DR.

SOUTH MIAMI, FL 33143

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

IN WITNESS WHEREOF, the Parties hereto have made and executed this Interlocal Agreement on this 24th day of July, 2012.

ATTEST:

VILLAGE OF PALMETTO BAY, a municipal corporation of the State of Florida

BY: Melissa Alexandre
Village Clerk

(Affix Village Seal)

BY: [Signature]
Village Manager

Approved by Village Attorney
as to form and legal sufficiency:

[Signature]
Village Attorney

Section 17. Notices. Any notices to be given hereunder shall be in writing and shall be deemed to have been given if sent by hand delivery, recognized overnight courier (such as Federal Express), or it must be given 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 Cutler Bay:

Town Manager
Town of Cutler Bay
10720 Caribbean Boulevard, Suite 105
Town of Cutler Bay, Florida 33189

With a Copy to:

Weiss Serota Helfman
Pastoriza Cole & Boniske, P.L.
2525 Ponce de Leon Boulevard
Suite 700
Coral Gables, Florida 33134

*VILLAGE MANAGER
VILLAGE OF PALMISTO BAY
9705 E. HIBISCUS ST.
PALMISTO BAY, FL 33157*

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

Section 19. Filing. It is agreed that this Interlocal Agreement shall be filed with the Clerk of the Circuit Court of Miami-Dade County, as required by Section 163.01(11), Florida Statutes.

Section 20. Joint Effort. The preparation of this Interlocal Agreement has been a joint effort of the Parties hereto and the resulting document shall not, solely as a

IN WITNESS WHEREOF, the Parties hereto have made and executed this Interlocal Agreement on this 30 day of JULY, 2012.

ATTEST:

MIAMI SHORES VILLAGE, a municipal corporation of the State of Florida

BY:

Barbara A. Estep, MMC
Village Clerk

BY:

T. M. [Signature]
Village Manager

(Affix Village Seal)



Section 16. Indemnification. The Parties agree that the TPA for the District shall always indemnify and hold harmless the Parties and the District. The Parties understand and acknowledge that the indemnification provisions included in Section 11 "Indemnification" of the Agreement between the Town of Cutler Bay and Ygrene, dated August 16, 2011, which will be assigned to the District, extend to all of the members of the District.

Section 17. Notices. Any notices to be given hereunder shall be in writing and shall be deemed to have been given if sent by hand delivery, recognized overnight courier (such as Federal Express), or it must be given 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 Cutler Bay: Town Manager
 Town of Cutler Bay
 10720 Caribbean Boulevard, Suite 105
 Town of Cutler Bay, Florida 33189

With a Copy to: Weiss Serota Helfman
 Pastoriza Cole & Boniske, P.L.
 2525 Ponce de Leon Boulevard
 Suite 700
 Coral Gables, Florida 33134

If to Miami Shores Village: Village Manager
 Miami Shores Village
 10050 N.E. 2nd Avenue
 Miami Shores, FL 33138

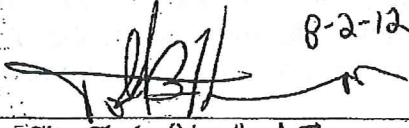
With a Copy to: Richard Sarafan, Esquire
 Genovese Joblove & Batista
 100 S.E. Second Street, 44th Floor
 Miami, FL 33131

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

IN WITNESS WHEREOF, the Parties hereto have made and executed this Interlocal Agreement on this 2 day of August, 2012.

ATTEST:


BY:

 8-2-12
City Clerk - Priscilla A. Thompson

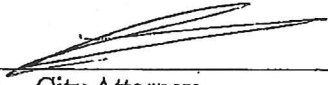
(Affix City Seal)

CITY OF MIAMI, a municipal corporation of the State of Florida

BY:


City Manager

Approved by City Attorney
as to form and legal sufficiency


City Attorney

Section 16. Indemnification. The Parties agree that the TPA for the District shall always indemnify and hold harmless the Parties and the District. The Parties understand and acknowledge that the indemnification provisions included in Section 11 "Indemnification" of the Agreement between the Town of Cutler Bay and Ygrene, dated August 16, 2011, which will be assigned to the District, extend to all of the members of the District.

Section 17. Notices. Any notices to be given hereunder shall be in writing and shall be deemed to have been given if sent by hand delivery, recognized overnight courier (such as Federal Express), or it must be given 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 City of Miami:

Johnny Martinez
City Manager
City of Miami
3500 Pan American Dr. □
Miami, Florida 33133

With a Copy to:

Julie O. Bru
Office of the City Attorney
444 SW 2nd Avenue, Suite 952
Miami, Florida 33130

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


IN WITNESS WHEREOF, the Parties hereto have made and executed this Interlocal Agreement on this 26th day of July, 2012.

The City's execution of this Agreement is subject to Resolution 2012-05, which establishes the properties within Coral Gables that may participate in the District. A copy of the Resolution is attached hereto, and incorporated herein.

ATTEST:

CITY OF CORAL GABLES, a municipal corporation of the State of Florida

BY: 
City Clerk

BY: 
City Manager

(Affix Town Seal)

Approved by City Attorney
as to form and legal sufficiency


City Attorney

Section 16. Indemnification. The Parties agree that the TPA for the District shall always indemnify and hold harmless the Parties and the District. The Parties understand and acknowledge that the indemnification provisions included in Section 11 "Indemnification" of the Agreement between the Town of Cutler Bay and Ygrene, dated August 16, 2011, which will be assigned to the District, extend to all of the members of the District.

Section 17. Notices. Any notices to be given hereunder shall be in writing and shall be deemed to have been given if sent by hand delivery, recognized overnight courier (such as Federal Express), or it must be given 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 Cutler Bay: Town Manager
 Town of Cutler Bay
 10720 Caribbean Boulevard, Suite 105
 Town of Cutler Bay, Florida 33189

With a Copy to: Weiss Serota Helfman
 Pastoriza Cole & Boniske, P.L.
 2525 Ponce de Leon Boulevard
 Suite 700
 Coral Gables, Florida 33134

If to Coral Gables City Manager
 City of Coral Gables
 405 Biltmore Way
 Coral Gables, Florida 33134

With a Copy To: City Attorney
 City of Coral Gables
 405 Biltmore Way
 Coral Gables, Florida 33134

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

EXHIBIT B

INDEMNIFICATION AGREEMENT BETWEEN YGRENE ENERGY FUND FLORIDA LLC, AS ADMINISTRATOR OF THE GREEN CORRIDOR PROPERTY ASSESSMENT CLEAN ENERGY (PACE) DISTRICT, AND ALACHUA COUNTY, FLORIDA

This Indemnification Agreement (the "Agreement") is entered into August 1, 2018 by and between Ygrene Energy Fund Florida, LLC ("Ygrene"), as the administrator of the Green Corridor Property Assessment Clean Energy (PACE) District ("Green Corridor"), and Alachua County, a charter county and political subdivision of the State of Florida, by and through its Board of County Commissioners ("County") (collectively, the "Parties").

WHEREAS, the County and Green Corridor have proposed to enter into a First Amended and Restated Interlocal Agreement ("First Amendment") to authorize Green Corridor to operate in Alachua County for the purposes of providing a Property Assessed Clean Energy (PACE) program; and

WHEREAS, Ygrene is the third party administrator for Green Corridor and Ygrene would be operating on behalf of Green Corridor within Alachua County; and

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

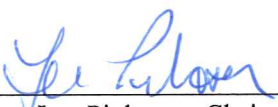
NOW, THEREFORE, the Parties hereby agree as follows:

1. The foregoing recitals are true and correct and incorporated into this Agreement.
2. Ygrene shall indemnify and hold harmless the County and its officers, employees, agents, and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the County or its officers, employees, agents, or instrumentalities may incur as a result of claims, demands, suits, causes of action, or proceedings of any kind or nature arising out of, relating to, or resulting from the performance of the First Amendment by Ygrene or its employees, agents, servants, partners, principals, administrators, subcontractors, or agents. Ygrene 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 all claims, suits, or actions of any kind or nature in the name of the County, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. Ygrene expressly understands and agrees that any insurance protection shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County or its officers, employees, agents, and instrumentalities as herein provided.

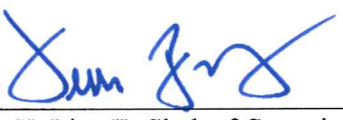
3. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. The Parties agree that the exclusive venue for any lawsuit arising from, related to, or in conjunction with this Agreement shall be in the state courts of the Eighth Judicial Circuit in and for Alachua County, Florida, the United States District Court for the Northern District of Florida or United States Bankruptcy Court for the Northern District of Florida, as appropriate.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on this 1st day of August, 2018.

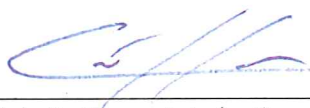
BOARD OF COUNTY COMMISSIONERS
ALACHUA COUNTY, FLORIDA

By: 
Lee Pinkoson, Chair

ATTEST:

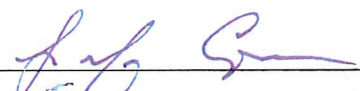
By: 
Jesse K. Irby, II, Clerk of Commission

APPROVED AS TO FORM


Sylvia E. Torres, Interim County Attorney

ATTEST:

YGRENE ENERGY FUND FLORIDA, LLC

By: 
Print Name: Jennifer Capuano, Paralegal

By: 
Print Name: Rocco Fabiano, President

Approved as to form and legality:

By: 
Print Name: Scott Cadieux, Registered In-House Counsel



Agenda

ALACHUA COUNTY BOARD OF COUNTY COMMISSIONERS

Jack Durrance Auditorium
Second Floor

12 SE 1st Street

August 14, 2018 BoCC Regular Meeting 9:00AM

Agenda Item #50.

Agenda Item Name:

Property Assessed Clean Energy - Interlocal Agreements with Enhanced Consumer Protections

Presenter:

Sean McLendon, 548 3765

Item Description:

Property Assessed Clean Energy (PACE) Interlocal agreements with negotiated enhanced consumer protections per previous Board direction.

Recommended Action:

Approve and authorize the Chair to sign all attached Interlocal Agreements and Indemnification Agreements.

If any agency refuses to enter into a revised Interlocal Agreement, direct staff to terminate the existing agreement per the termination clause.

Prior Board Motions

December 8, 2015 Regular Board Meeting Agreements with Property Assessed Clean Energy Providers Commissioner Byerly moved to implement the PACE Program for Commercial Properties. The motion carried 5-0. Commissioner Byerly moved to implement the PACE Program for Residential Properties. The motion carried 3-2 with Commissioners Chestnut and Pinkoson voting "Nay". Commissioner Byerly moved the following:

1.A. Approve and authorize the Chair to sign the Third Party Administered Interlocal Agreements, Resolution and other supporting documents to enact a Property Assessed Clean Energy Tuesday, December 8, 2015 – 9:00 A.M. & 5:00 P.M. program in Alachua County for residential and commercial properties.

1.B. Accept the finalized PACE Vendor Qualification Criteria, Rights and Responsibilities, and Truth in Lending Documents and direct staff to begin outreach and public education after vendors provides training and orientation of their programs.

2. Staff to provide the Board with a written summary of differences and issues that remain between the County and Florida PACE Funding Industry.

March 22, 2016 Regular Board Meeting Summary of PACE Interlocal Agreement Differences Commissioner Byerly moved to direct staff to work with the Florida Pace Funding Agency to resolve the differences of opinion on Items 2,3,6,7,8,11,13,14,and 15 on the staff provided matrix and return to the Board within 30 days with another proposal. Strategic Initiatives Manager Sean McLendon and Commissioner Cornell presented comments. The motion carried 5-0.

April 26, 2016 Regular Board Meeting Consent Agenda: Approve Agreement with Florida PACE Funding Agency Property Assessed Clean Energy Provider, per Sean McLendon

January 16, 2018 Special Board Meeting: Commissioner Cornell moved the following:

1. That staff meet with any applicable citizens that have had complaints as well as the Tax Collector's Office and ask each of the related PACE providers to provide a written response as to how those issues have been resolved.
 2. Direct staff to brief the Board within 30 days as to the findings as well any proposed suggestions for improving consumer protections.
 3. Request a written response from each of the PACE providers as to whether or not they support the current proposed consumer protection legislation as well as staff's analysis of the legislation.
 4. Staff to classify the types problems and repairs and the Board can discuss the issues and possible scope of services based on the responses.
- Commissioner Byerly and Commissioner Hutchinson presented comments. The motion carried 5-0.

At the May 22, 2018 Regular Board Meeting, Commissioner Byerly moved to direct Staff to negotiate amendments to the Pace Interlocal Agreements to include consumer protections 1, 2, 4 and 5 to the extent that they are already a part of the process. There should be additional disclaimer that reflects the possibility that the payment may increase the borrower's monthly escrow payment. If any agency refuses to enter into a revised Interlocal Agreement then the County will move to terminate the agreement per the termination clause. Staff should return to the Board within 60 days for approval.

Consumer Protections Referenced in the Motion:

- Better definition to the scope of the Finance Agreement
- More strictly defined consumer eligibility
- Clarifications of Fair Market Value
- Additional steps prior to the execution of the Finance Agreement

The motion carried 5-0.

Comprehensive Plan Guidance Energy Element

7.0 Renewable Energy

OBJECTIVE 7.1 Encourage renewable energy production and a countywide system of distributed residential and commercial power generation.

Policy 7.1.2 Alachua County shall pursue implementation of an efficiency and renewable energy financing program, such as a Property Assessed Clean Energy (PACE) program.

OBJECTIVE 7.2

Increase the use of solar and other forms of renewable energy by County residents, businesses and agricultural operations.

Fiscal Consideration:

Staff monitors but does not administer PACE programs. Any administrative oversight or pre-post assessment review will require additional resources in addition to amendments to existing interlocal agreements.

Background:

Property Assessed Clean Energy finance (PACE) is a voluntary finance mechanism for renewable energy, energy efficiency and wind hardening improvements to commercial and residential property repaid as a special assessment annually on the tax bills issued by the County. PACE was enacted by Florida Statute in 2010 and enabled by local governments via resolution and typically, uses third party administrative programs to run,

market and assess properties. Local governments join together in an authority model to reduce the administrative burden, cost and need to find a funding source by signing on with these bodies.

The Board approved PACE by resolution and interlocal agreements starting in December 2015. In 2017, the Board was made aware of a few citizens that had issues with their PACE assessments. In response to these citizen concerns, the Board directed staff to renegotiate the interlocal agreements with the following enhanced consumer protections categories:

Better definition to the scope of the Finance Agreement

More strictly defined consumer eligibility

Clarifications of Fair Market Value

Additional steps prior to the execution of the Finance Agreement with an additional disclaimer that reflects the possibility that the payment may increase the borrower's monthly escrow payment.

This language is referenced in the interlocal agreements as part of part 7 and sets baseline expectations for PACE communications and services in Alachua County. There are slight, variations of wording of the enhanced consumer protections, depending upon the program and how it is administered. Even with the variation the same structure and intent is maintained between each agreement so that the citizens of Alachua County may have standard expectations of service and disclosure. These enhanced consumer protections were not part of the 2015-2016 interlocal agreements. For PACE agreements going forward, this standard language will be included along with better definition of relevant terms including direct references to the Agency/District's founding documents.

In addition to the enhanced consumer protections, the interlocal agreements also include defined responsibilities of the providers in part 9 of the agreement. These provisions codify PACE industry best management practices and underwriting standards.

Note, that the Green Corridor (Ygrene) agreement deviates on one point in the consumer protections related to carbon credits/renewable energy credits going to the property owner. Green Corridor wishes to retain ownership of these rights. All other providers have agreed that the Property Owner will keep ownership. Please see the relevant section in Part 7 Consumer Protections, iv Disclosure Requirements, subpart I and also Part 10 Carbon or Similar Credits of the agreement.

PACE is one of many financial tools available to citizens to pay for wind hardening and energy related improvements to property. As with any finance mechanism, citizens are encouraged to review the terms, cost of money and overall affordability of property improvements prior to signing any agreement.

At the May 22, 2018 Board meeting the Board elected to not include an ability to pay provision and explicit credit score/debt to income ratios as categories of enhanced consumer protections.

"Ability to Pay", may be brought up as part of 2019 State Legislation. This language was first explored as part of the 2018 bill, Increasing Consumer Protections and Transparency– HB 1225/SB 1858. This PACE legislation failed.

Alachua County citizens at the conclusion of agreement adoption will have four, third party administered providers for citizens to compare and choose from for PACE financing.

Programs

GREEN CORRIDOR PACE (Ygrene); Program Rep: Kate Wesner; Sr. Director, Government Affairs; kate.wesner@ygrene.com

FLORIDA GREEN FINANCE AUTHORITY (Renew Financial); Program Rep: Natalie Schneider, AICP, Regional Director, Government Affairs, Renew Financial, Florida Office, Program Administrator for the Florida Green Finance Authority; nschneider@renewfinancial.com

FLORIDA PACE FUNDING Agency (CounterPointe Energy Solutions); Program Rep: C.J. De Santis, Head

of Government Relations; Counterpointe Energy Solutions LLC, Counterpointe Sustainable Real Estate LLC;
cj@CounterPointeES.com

Florida Resiliency and Energy District (Renovate America); Program Rep: Mike Antheil, Senior Director,
Florida Market Development and External Affairs mantheil@renovateamerica.com

Staff monitors but does not administer PACE programs. Any administrative oversight or pre-post assessment
review will require additional resources in addition to amendments to existing interlocal agreements.