

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

Joseph P. Stanton
Nelson Mullins Broad & Cassel
Bank of America Center
390 North Orange Avenue
Suite 1400
Orlando, FL 32801-4961

(SPACE reserved for Clerk of Court)

LIMITED PURPOSE PARTY MEMBERSHIP AGREEMENT BETWEEN THE FLORIDA RESILIENCY AND ENERGY DISTRICT AND CITY OF MARGATE

This Limited Purpose Party Membership Agreement (the "Agreement") is entered into this ____ day of _____, 20__ by and between the **FLORIDA RESILIENCY AND ENERGY DISTRICT ("FRED")**, a public body corporate and politic created as a separate legal entity pursuant to Section 163.01(7), Florida Statutes, and **CITY OF MARGATE**, a political subdivision of the State of Florida (the "**CITY OF MARGATE**") (collectively, the "Parties") for the purpose of providing a Property Assessed Clean Energy ("PACE") program within the legal boundaries of the **CITY OF MARGATE**.

W I T N E S S E T H

WHEREAS, pursuant to Section 163.08(1), Florida Statutes, the legislature determined that access to financing for certain renewable energy, energy efficiency and conservation and wind resistance improvements ("Qualifying Improvements") through voluntary assessment programs such as the PACE program provides a special benefit to real property by alleviating the property's burden from energy consumption and/or reducing the property's burden from potential wind damage; and

WHEREAS, in order to make such Qualifying Improvements more affordable and assist property owners who wish to undertake such improvements, the legislature also determined that there is a compelling state interest in enabling property owners to voluntarily finance such Qualifying Improvements with the assistance of local governments, through the execution of financing agreements and the related imposition of voluntary, non-ad valorem special assessments; and

WHEREAS, an Interlocal Agreement, dated September 6, 2016, as amended and supplemented from time to time (the "Interlocal Agreement") was entered into between the Town of Lake Clarke Shores, the City of Fernandina Beach, and any subsequent parties thereto (the "Public Agencies") and, in the limited capacity described therein, the Florida Development Finance Corporation ("FDFC" and, together with the Public Agencies, the "Parties"), for the purpose of facilitating the financing of Qualifying Improvements for properties located within FRED's aggregate legal boundaries via the levy and collection of voluntary non-ad valorem special assessments on improved property; and

WHEREAS, the **CITY OF MARGATE** agrees with such legislative determinations and finds that the financing of Qualifying Improvements through the PACE program provides a special benefit to participating real property within its legal boundaries; and

WHEREAS, the Parties to this Agreement desire to supplement the Interlocal Agreement to include the **CITY OF MARGATE** as a Limited Member, as such term is defined in the Interlocal Agreement, on the date last signed below.

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

SECTION 1. DEFINITIONS. Any capitalized terms used in this Agreement, but not otherwise defined herein, shall have the meaning specified for such term in the Interlocal Agreement.

SECTION 2. PURPOSE. The purpose of this Agreement is to facilitate the financing of Qualifying Improvements through a PACE program, in accordance with Section 163.08, Florida Statutes, and provide an efficient process for real property owners within the legal boundaries of the **CITY OF MARGATE** to access the PACE program and permit FRED to administer the PACE program within such legal boundaries.

SECTION 3. RIGHTS OF PARTIES. FRED, together with its member Parties, and the **CITY OF MARGATE**, with the intent to be bound thereto, hereby agree that the **CITY OF MARGATE** shall become a Party to the Interlocal Agreement together with only those rights and obligations of Parties to the Interlocal Agreement as are necessary to fulfill the purposes described in this Agreement, including access to financing and processing of non-ad valorem special assessments by FRED, within the legal boundaries of the **CITY OF MARGATE**, as more specifically described below, and in accordance with federal, state, and local laws, rules, regulations, ordinances, and all operational program standards of the **CITY OF MARGATE**.

SECTION 4. INCORPORATION OF RECITALS AND LEVY OF SPECIAL ASSESSMENTS. The Parties hereby acknowledge and agree with each recital to this Agreement and incorporate such findings herein as their own. The non-ad valorem special assessments arising from a property owner's voluntary participation in the PACE program shall be levied by FRED on properties within the legal boundaries the **CITY OF MARGATE** and the receipt and distribution of any non-ad valorem special assessments imposed by FRED are purely ministerial acts.

SECTION 5. QUALIFYING IMPROVEMENTS. FRED may provide access to financing for Qualifying Improvements to real property within the legal boundaries of the **CITY OF MARGATE**, in accordance with Section 163.08, Florida

Statutes, and subject to the terms of this Agreement, as well as applicable federal, state, and CITY OF MARGATE law.

SECTION 6. FINANCING AGREEMENT. Before extending any financing or subjecting any participating real property within the legal boundaries of the CITY OF MARGATE to the non-ad valorem special assessment authorized therein, FRED and FDFC, through their designees, shall, on a non-exclusive basis pursuant to the Section 163.08, Florida Statutes and this Agreement, enter into a financing agreement (the "Financing Agreement") with property owner(s) within the legal boundaries of the CITY OF MARGATE who qualify for financing through FRED. The Financing Agreement shall include a thorough explanation of the PACE financing process and specify at what point in the process the special assessment will be added to the real property's owner's property tax bills (after completion of the project(s), permit approval, and approval by the property owner).

SECTION 7. BOUNDARIES OF THE PACE PROGRAM. For the limited purposes of administering the PACE program and imposing non-ad valorem special assessments as described in this Agreement, the legal boundaries of FRED shall include the legal boundaries of the CITY OF MARGATE, which legal boundaries may be limited, expanded to reflect annexation, or more specifically designated from time to time by the CITY OF MARGATE by providing written notice to FRED. Upon execution of this Agreement and written request thereafter, the CITY OF MARGATE agrees to provide FRED the current legal description of the legal boundaries of the CITY OF MARGATE.

SECTION 8. ELIGIBLE PROPERTIES. Within the legal boundaries of the CITY OF MARGATE, improved real property, including any residential, commercial, agricultural and industrial use may be eligible for participation in the PACE program within the limits otherwise prescribed in Section 163.08, Florida Statutes.

SECTION 9. SURVIVAL OF SPECIAL ASSESSMENTS. During the term of this Agreement, FRED may levy voluntary non-ad valorem special assessments on participating properties within the legal boundaries of the CITY OF MARGATE to help secure the financing of costs of Qualifying Improvements constructed or acquired on such properties based on the finding of special benefit by the CITY OF MARGATE incorporated into Section 3 hereof. Those properties receiving financing for Qualifying Improvements shall be assessed by FRED until such time as the financing for such Qualified Improvement is repaid in full, in accordance with Section 163.08, Florida Statutes, and other applicable law. Notwithstanding termination of this Agreement or notice of a change in the legal boundaries of the CITY OF MARGATE as provided for herein, those properties that have received financing for Qualifying Improvements shall continue to be a part of FRED, until such time that all outstanding debt has been satisfied.

SECTION 10. TERM. This Agreement shall remain in full force and effect from the date of its execution by both Parties. Any Party may terminate this Agreement for

convenience upon ninety (90) days' prior written notice ("Termination Notice") in accordance with the terms of the Interlocal Agreement. Beginning on the date FRED receives a Termination Notice from the CITY OF MARGATE ("Termination Date"), FRED shall not approve any new applications affecting property within the legal boundaries of the CITY OF MARGATE referenced in the Termination Notice. Notwithstanding termination of this Agreement, however, property owners whose applications were approved prior to the Termination Date, and who received funding through the PACE program, shall continue to be a part of FRED, for the sole purpose of FRED imposing assessments for the repayment of such property's outstanding debt, until such time that all outstanding debt has been satisfied.

SECTION 11. CONSENT. This Agreement, together with the resolution by the governing board of the CITY OF MARGATE approving this Agreement, shall be considered the Parties' consent to authorize FRED to administer the PACE program within the legal boundaries of the CITY OF MARGATE, as required by Section 163.08, Florida Statutes.

SECTION 12. PROGRAM ADMINISTRATORS. Before an additional PACE Program Administrator is authorized to enter into any PACE Financing Agreements with the "City", FRED shall provide the "City" thirty (30) days prior notice of the launch of a newly approved Program Administrator that could affect the "City" as a Limited Party. Should the "City" find fault(s) with any Program Administrator not remedied by prior communication with FRED, the "City" shall provide FRED with written notice of the specific fault(s) regarding a Program Administrator and FRED shall have thirty (30) days (the "Cure Period") within which to cure such fault(s). If the fault is cured within the Cure Period, as determined by the "City" in the exercise of its reasonable discretion, then FRED shall not remove the Program Administrator from the Program. If FRED does not remedy such fault(s) within the Cure Period, then the "City" shall have the right (but not the obligation) to request FRED to cease approval of new Financing Agreements by the Program Administrator and remove the Program Administrator from the Program; provided however, the Program Administrator shall have six (6) months to complete any previously approved transactions from the date of removal.

SECTION 13. CITY OF MARGATE COORDINATOR. The DEPARTMENT OF ENVIRONMENTAL AND ENGINEERING SERVICES (DEES) within the CITY OF MARGATE shall serve as the CITY OF MARGATE's primary point of contact and coordinator. The CITY OF MARGATE will advise FRED of any changes to the CITY OF MARGATE's primary contact and coordinator within 30 days of such changes.

SECTION 14. CARBON OR SIMILAR CREDITS. To the extent permitted by law, in the event that the Financing Agreement or any other PACE agreement with the property owner provides for the transfer of any carbon or similar mitigation credits derived from Qualifying Improvements to FRED, any such carbon or similar mitigation

credits derived from properties within the legal boundaries of the CITY OF MARGATE, shall be shared in equal parts between FRED and the CITY OF MARGATE.

SECTION 15. LIMITED OBLIGATIONS. Neither FRED nor FDFC is authorized to issue bonds, or any other form of debt, on behalf of the CITY OF MARGATE without a separate interlocal agreement or other authority provided by State law. To the extent that FRED or FDFC issues PACE-related bonds under its own authority in connection with this Agreement, the security for such bonds may be secured by non-ad valorem special assessments imposed by FRED on participating properties within the legal boundaries of the CITY OF MARGATE. The issuance of such bonds shall not directly or indirectly or contingently obligate the CITY OF MARGATE to levy or to pledge any form of taxation whatever, or to levy ad valorem taxes on any property within their territorial limits to pay the bonds, and the bonds shall not constitute a lien upon any property owned by the CITY OF MARGATE. For any such bonds, the bond disclosure document, if any, shall include references to the fact that the CITY OF MARGATE is not an obligated party, and also adequately disclose material attendant risks with PACE programs.

SECTION 16. LIABILITY, INDEMNIFICATION AND SOVEREIGN IMMUNITY.

(A) CITY OF MARGATE and FRED are and shall be subject to Sections 768.28 and 163.01(9)(c), Florida Statutes, and any other provisions of Florida law governing sovereign immunity. Pursuant to Section 163.01(5)(0), Florida Statutes, and this covenant of the parties hereto, the local governments who are either or both the founders or members of FRED shall not be held jointly liable for the torts of the officers or employees of the FRED, or any other tort attributable to FRED, and that FRED alone shall be liable for any torts attributable to it or for torts of its officers, employees or agents, and then only to the extent of the waiver of sovereign immunity or limitation of liability as specified in Section 768.28, Florida Statutes. CITY OF MARGATE and FRED acknowledge and agree that FRED shall have all of the applicable privileges and immunities from liability and exemptions from laws, ordinances, rules and common law which apply to the municipalities and counties of the State. CITY OF MARGATE is completely independent of FRED. To the extent provided by law, FRED shall indemnify, defend and hold harmless CITY OF MARGATE from any and all damages, claims, and liability arising from the negligence or intentional misconduct of FRED relating to operation of the PACE program. Nothing in this Agreement is intended to inure to the benefit of any third-party for the purpose of allowing any claim, which would otherwise be barred under the doctrine of sovereign immunity or by operation of law.

(B) Neither CITY OF MARGATE, nor the local governments who are either or both the founders or members of the Agency, nor any subsequently joining or participating local government as members of FRED shall in any manner be obligated to pay any debts, obligations or liabilities arising as a result of any actions of FRED, the governing board of FRED or any other agents, employees, officers or officials of FRED, except to the extent

otherwise mutually and expressly agreed upon, and neither FRED, the governing board of FRED or any other agents, employees, officers or officials of FRED have any authority or power to otherwise obligate either CITY OF MARGATE, the local governments who are either or both the founders or members of FRED, nor any subsequently subscribing or participating local government in the business of FRED in any manner.

(C) All of the privileges and immunities from liability and exemptions from laws, ordinances and rules which apply to the activity of officials, officers, agents or employees of the parties shall apply to the officials, officers, agents or employees thereof when performing their respective functions and duties under the provisions of this Agreement.

SECTION 17. AGREEMENTS WITH TAX COLLECTOR AND PROPERTY APPRAISER. This Agreement shall be subject to the express condition precedent that FRED enter into separate agreement(s) with the tax collector and the property appraiser having jurisdiction over the legal boundaries of the CITY OF MARGATE, which shall provide for the collection of any non-ad valorem special assessments imposed by FRED within the legal boundaries of the CITY OF MARGATE. If required by the tax collector and property appraiser, the CITY OF MARGATE agrees to enter into those agreements as a third-party to facilitate the collection of the non-ad valorem special assessments imposed by FRED.

SECTION 18. OPINION OF BOND COUNSEL. FRED warrants, based on counsel's review of the bond validation judgment and the underlying bond documents that the FDFC PACE program's structure complies with the bond validation judgment and the underlying bond documents.

SECTION 19. AGENTS OF FRED. FRED shall ensure that its agents, administrators, subcontractors, successors and assigns are, at all times, in compliance with the terms of this Agreement and applicable CITY OF MARGATE, state and federal laws.

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, or by electronic mail, addressed to the Party for whom it is intended, at the place specified. For the present, the Parties designate the following as the respective places for notice purposes:

If to FRED:

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

156 Tuskawilla Road, Suite 2340
Winter Springs, FL 32708
bspivey@fdcbonds.com

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

If to CITY OF MARGATE:

City of Margate
Director of DEES
901 NW 66 Avenue, Suite A
Margate, FL 33063

and

City of Margate
City Attorney
5790 Margate Boulevard
Margate, FL 33063

SECTION 21. AMENDMENTS. No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this agreement and executed by the CITY OF MARGATE and FRED or other delegated authority authorized to execute same on their behalf.

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 represents the final and complete understanding of the Parties regarding the subject matter hereof and supersedes all prior and contemporaneous negotiations, correspondence, agreements, or understandings applicable to the matters contained herein; and the Parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the Parties agree that no

deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

SECTION 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. THIRD PARTY BENEFICIARIES. None of the Parties intend to directly or substantially benefit a third party by this Agreement. Therefore, the Parties acknowledge that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a right or claim against either of them based upon this Agreement; provided, however, that counsel to the Parties may rely on this Agreement for purposes of providing any legal opinions required by the issuance of debt to finance the Qualifying Improvements.

SECTION 26. 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 27. RECORDING. This Limited Purpose Party Membership Agreement shall be filed by FRED with the Clerk of the Circuit Court in the Public Records of the CITY OF MARGATE and recorded in the public records of the CITY OF MARGATE as an amendment to the Interlocal Agreement, in accordance with Section 163.01(11), Florida Statutes.

SECTION 28. SEVERABILITY. In the event a portion of this Agreement is found to be unenforceable by a court of competent jurisdiction, that part shall be deemed severed from this Agreement and the remaining provisions of this Agreement shall remain in full force and effect.

SECTION 29. EFFECTIVE DATE. This Agreement shall become effective upon the execution by both Parties hereto.

SECTION 30. LAW, JURISDICTION, AND VENUE. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the state of Florida. The Parties agree that the exclusive venue for any lawsuit arising from, related to, or in connection with this Agreement shall be in the state courts of the [First...Twentieth] Judicial Circuit in and for [NAME OF COUNTY], Florida, the United States District Court for the [Northern][Middle][Southern] District of Florida or United States Bankruptcy Court for the [Northern][Middle][Southern] District of Florida, as appropriate.

[SIGNATURE PAGES FOLLOW]

[SIGNATURE PAGE TO LIMITED PURPOSE PARTY MEMBERSHIP AGREEMENT]

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement
on this _____ day of _____, 2019.

CITY OF MARGATE, FLORIDA

Anthony N. Caggiano, Mayor

____ day of _____, 2019

Samuel A. May, City Manager

____ day of _____, 2019

ATTEST:

APPROVED AS TO FORM:

Joseph J. Kavanagh, City Clerk

____ day of _____, 2019

James A. Cherof, Interim City Attorney
Firm of Goren, Cherof, Doody & Ezrol, P.A.

____ day of _____, 2019

[SIGNATURE PAGE TO LIMITED PURPOSE PARTY MEMBERSHIP AGREEMENT]

WITNESS:

WITNESS:

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

By:

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

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by William "Bill" F. Spivey, Jr., Executive Director of the Florida Development Finance Corporation, who is personally known to me/has produced _____ as identification.

(SEAL)

Printed/Typed Name:_____

Notary Public-State of Florida

Commission Number: