

RESOLUTION NO. 2182-17

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, APPROVING A PARTY MEMBERSHIP AGREEMENT AND ITS INCORPORATED INTERLOCAL AGREEMENT IN ORDER TO JOIN THE FLORIDA GREEN FINANCE AUTHORITY'S PROPERTY ASSESSED CLEAN ENERGY (PACE) PROGRAM UNDER SECTION 163.08, FLORIDA STATUTES; PROVIDING FOR AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, in 2010, the Florida Legislature adopted HB 7179 which created Section 163.08, F.S., which allows local governments to create Property Assessed Clean Energy (PACE) programs in order to provide the upfront financing for energy conservation and efficiency (i.e. energy-efficient heating, cooling, or ventilation systems), renewable energy (i.e. solar panels), wind resistance (i.e. impact resistant windows) and other improvements that are not inconsistent with state law (the "Qualifying Improvements"); and

WHEREAS, PACE programs not only assist residents and business owners in reducing their carbon footprint and energy costs, but also stimulate the local economy by the creation of needed construction jobs; and

WHEREAS, Section 163.08, F.S. authorizes local governments that create PACE programs to enter into a partnership with one or more local governments in order to provide more affordable financing for the installation of the Qualifying Improvements; and

WHEREAS, the Town of Lantana, Florida and the Town of Mangonia Park, Florida, entered into that certain Interlocal Agreement dated June 11, 2012, as amended (the "Interlocal Agreement"), establishing the Florida Green Finance Authority, a separate and distinct legal entity in accordance with Section 163.01(7), for the purpose of administering a PACE program; and

WHEREAS, other local governments may join the Florida Green Finance Authority program by executing a Party Membership Agreement whereby such a local government becomes a party to the Interlocal Agreement; and

WHEREAS, given the widespread energy and economic benefits of PACE programs, the City Commission desires to join the Florida Green Finance Authority PACE program in order to provide the upfront financing to property owners for Qualifying Improvements, and to enter into the Party Membership Agreement attached hereto; and

WHEREAS, the City Commission finds that this Resolution is in the best interest and welfare of the residents of the City of Winter Park.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The above recitals are true and correct and are incorporated herein by this Resolution.

Section 2. Approval of Party Membership Agreement. The City Commission hereby approves the Party Membership Agreement between the Florida Green Finance Authority (the "Authority") and the City of Winter Park, in substantially the form attached to this Resolution. The Party Membership Agreement is non-exclusive and shall not affect any existing PACE Program that the City has or the ability of the City to create, join, or participate in any other similar programs.

Section 3. Authorization. The Mayor, or his or her designee, is hereby authorized to execute the Party Membership Agreement.


Section 4. Effective Date. This Resolution shall take effect immediately upon adoption.

PASSED and ADOPTED this 10th day of April, 2017.



Steve Leary, Mayor

ATTEST:



Cynthia Bonham, City Clerk

**Party Membership Agreement
To The Florida Green Finance Authority**

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

WHEREAS, the Town of Lantana, Florida, a Florida municipal corporation ("Lantana") and the Town of Mangonia Park, Florida, a Florida municipal corporation, ("Mangonia Park") entered into an Interlocal Agreement, dated June 11, 2012, first amended on August 11, 2014 and second amended on April 7, 2016 with document execution May 9, 2016, establishing the Florida Green Finance Authority (sometimes herein the "Authority") 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, the City of Winter Park desires to become a member of the Florida Green Finance Authority in order to facilitate the financing of qualifying improvements for properties located within the City of Winter Park.

NOW, THEREFORE, it is agreed as follows:

1. The Interlocal Agreement between the Florida Green Finance Authority, the Town of Lantana and the Town of Mangonia Park, entered into on June 11, 2012 and as amended on August 11, 2014 and April 7, 2016 with document execution May 9, 2016 (the "Interlocal Agreement"), for the purpose of facilitating the financing of qualifying improvements for properties located within the Authority's jurisdiction via the levy and collection of voluntary non-ad valorem assessments on improved property, is hereby supplemented and amended on the date last signed below by this Party Membership Agreement, which is hereby fully incorporated into the Interlocal Agreement, to include the City of Winter Park, a Florida municipal corporation (herein "City" or "City of Winter Park"). Capitalized words used herein shall have the same meaning as defined in the Interlocal Agreement unless otherwise defined herein.
2. The Florida Green Finance Authority, together with its member Parties, and the City of Winter Park, with the intent to be bound thereto, hereby agree that the City of Winter Park shall become a Party to the Interlocal Agreement together with all of the rights and obligations of Parties to the Interlocal Agreement.
3. The Service Area of the Florida Green Finance Authority shall include the legal boundaries of the City of Winter Park, as the same may be more specifically designated by the City of Winter Park or amended from time to time.
4. The RenewPACE Program and any other PACE program administered by the Authority within the City (the "Program"), and the Interlocal Agreement, are non-exclusive, meaning the City of Winter Park specifically reserves the right to join any other entity providing a similar program under Section 163.08, Florida Statutes, or to create its own program under Section 163.08, Florida Statutes.
5. The Authority, including its staff and Third Party Administrator ("TPA"), shall be solely responsible for all matters associated with origination, funding, financing, collection and

administration of each of the Authority's authorized non-ad valorem assessments. This Authority responsibility includes, (1) subject to the limitations in Section 768.28, Florida Statutes, the Authority defending and indemnifying and holding harmless the City of Winter Park and its officers, officials, attorneys and employees from any and all claims, causes of action, penalties, adverse matters or damages (including attorneys' fees and costs at all trial and appellate levels) incurred by or brought against City of Winter Park relating to the Program, the Program's bond or debt obligation, the Program's financing agreements, the Program's qualifying improvements, the Interlocal Agreement, this Party Membership Agreement, the acts or omissions of the Authority and its officers, directors, employees or TPA, any other aspect of the Program, or any combination thereof; (2) the Authority responding to any inquiries, requests for information, comments, objections, demonstrations, etc. by participants, tax certificate holders, lenders or others relating to the Program's non-ad valorem assessments, the Program's financing agreements, the Program's qualifying improvements, or any other aspect of the Program; and (3) the Authority ensuring and being responsible for compliance with all laws, rules and regulations in the imposition and collection of any non-ad valorem assessments levied upon property owned by participating property owners who have entered into a financing agreement.

6. Nothing herein shall be deemed or construed as a waiver of any sovereign immunity of or any other defense, privilege or immunities as set forth at Sec. 768.28, Florida Statutes or other law, afforded to the City of Winter Park or its officials, officers, attorneys and employees, or to the Authority and its officials, officers, attorneys and employees. Nothing in this Party Membership 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.

7. The Authority acknowledges that the City has no authority to bind the County Tax Collector and the County Property Appraiser, and the Authority will be required to enter into separate agreement(s) with the County Tax Collector and/or the County Property Appraiser, 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 non-ad valorem assessments. The Authority shall be solely responsible for professionally coordinating all interface with the County Tax Collector and County Property Appraiser, and use its best efforts to minimize to the greatest extent reasonably possible the time, effort and attention of these public officials to accomplish the public purposes and direction of this Party Membership Agreement and the Interlocal Agreement. The Authority shall take such actions as are necessary for the lawful levy of the non-ad valorem assessments against all lands and properties specially benefitted by the acquisition, construction and financing of qualifying improvements. The City shall not incur or ever be requested to authorize any obligations secured by non-ad valorem assessments associated with qualifying improvements imposed by the Authority.

8. In no event shall the City of Winter Park be liable for or obligated to pay or perform any debts, liabilities, conditions or obligations arising as a result of any financing agreement, any non-ad valorem assessment, any qualifying improvements, any act or omission of any property owner or its/their agents, or any act or omission of Authority or its officers, directors, employees and agents (including its TPA). City shall have no monetary, appropriation or budgetary obligations under this Party Membership Agreement, the Program, the Interlocal Agreement or any authorizing resolution or ordinance. In no event shall Authority or its members, directors, employees and agents (including its TPA) be empowered or authorized in any manner to create

or issue debt against or for the City, and shall not pledge the full faith and credit of the City. In no event shall the City have any responsibility or obligations arising from or concerning any debts incurred or issued by Authority. Neither the Authority nor any holder of any debt obligation issued by the Authority shall ever have the right to compel the City to exercise either its ad valorem or non-ad valorem taxing power, or taxation in any other form, of property therein to pay any amount due under any financing agreements or any non-ad valorem assessment.

9. This Party Membership Agreement shall remain in full force and effect from the date of its execution by the Authority and the City for a period of ten (10) years thereafter, unless terminated earlier as provided herein. Thereafter, this Party Membership Agreement will be automatically renewed for consecutive one-year periods, unless either party elects not to renew with at least ninety (90) days written notice prior to the end of any renewal term. In addition to the termination provisions under the Interlocal Agreement, the City shall have the right, at any time, to terminate this Party Membership Agreement upon ninety (90) days prior written notice to the Authority. The termination of this Party Membership Agreement shall also constitute a termination of the City's joining the RenewPACE Program or other Program administered by the Authority and termination and release of the City from any and all duties, rights and obligations under the Interlocal Agreement and as a member of the Authority. In the event of termination or non-renewal after the initial ten (10) year term, the City agrees that any project that has been initiated as of the date of termination or non-renewal shall be permitted to be completed.

10. The City of Winter Park designates the following as the respective place for any notices to be given pursuant to the Interlocal Agreement Section 27:

City of Winter Park:	Attn:	Randy Knight
		City Manager, City of Winter Park
		401 Park Avenue South
		Winter Park, FL 32789

With a copy to:	A. Kurt Ardaman
	City Attorney, City of Winter Park
	Fishback Dominick
	1947 Lee Road
	Winter Park, FL 32789

11. In the event of any conflict between the Interlocal Agreement and this Party Membership Agreement, this Party Membership Agreement shall control the rights and obligations of the City of Winter Park and the Authority with respect to the City's membership and involvement in the Program.

12. This Party Membership Agreement shall be recorded by the Authority with the Clerk of the Court in the Public Records of Palm Beach County as an amendment to the Interlocal Agreement and recorded in the public records of Orange County, in accordance with Section 163.01(11), Florida Statutes.

IN WITNESS WHEREOF, the Parties hereto subscribe their names to this Interlocal Agreement by their duly authorized officers.


ATTEST:

The Florida Green Finance Authority, a separate legal entity established pursuant to Section 163.01(7), Florida Statutes

By: 
Secretary of the Authority

By: 
Chair of the Authority

Approved by Authority Attorney
as to form and legal sufficiency


Authority Attorney

ATTEST:

City of Winter Park, through its
City Commission


City Clerk
Clerk of the City Commission of the
City of Winter Park, Florida

By: 
Steve Leary, Mayor

{SEAL}

10th day of APRIL, 2017.

Approved as to form by:

A. Kurt Ardaman

City of Winter Park, City Attorney

Fishback Dominick

1947 Lee Road

Winter Park, FL 32789

By: _____
A. Kurt Ardaman (Date)
City Attorney