AGENDA

COMMITTEE OF THE WHOLE WORKSHOP
BOARD OF COUNTY COMMISSIONERS

Board Chambers
Suite 100
Ernie Lee Magaha Government Building
221 Palafox Place

February 14, 2013
9:00 a.m.

Notice: This meeting is televised live on ECTV and recorded for rebroadcast on the same channel. Refer to your cable provider's channel lineup to find ECTV.

1. Call to Order

   (PLEASE TURN YOUR CELL PHONE TO THE SILENCE OR OFF SETTING.)

2. Was the meeting properly advertised?

3. Property Assessed Clean Energy (PACE) Program
   (Commissioner Robinson/Alison Rogers - 30 min)
   A. Board Discussion
   B. Board Direction

4. Policy Regarding Legal Representation for Commissioners and County Employees (Referred from January 8, 2013, Committee of the Whole Workshop)
   (Alison Rogers - 30 min)
   A. Board Discussion
   B. Board Direction

5. Discussion of Local Option Sales Tax IV
   (George Touart/Larry Newsom) - 30 min)
   A. Board Discussion
   B. Board Direction

6. Commissioner Appointment to the Escambia County Transportation Disadvantaged Coordinating Board
   (Julia Pearsall/Larry Newsom - 15 min)
   A. Board Discussion
   B. Board Direction

7. Discussion Concerning the Emerald Coast Utilities Authority (NO BACKUP PROVIDED)
(George Touart - 30 min)
A. Board Discussion
B. Board Direction

8. City of Pensacola and Gulf Breeze Agreement for Natural Gas Franchise Assignment
(Alison Rogers - 30 min)
A. Board Discussion
B. Board Direction

9. Raising Chickens Accessory to Single-Family Dwellings
(T. Lloyd Kerr -30 min)
A. Board Discussion
B. Board Direction

10. Regional Transportation Financing Authority Discussion Concerning a Resolution to Be Brought Forth to the Next Board Meeting - (BACKUP TO BE DISTRIBUTED UNDER SEPARATE COVER)
(Larry Newsom/Commissioner Valentino - 15 min)
A. Board Discussion
B. Board Direction

11. Adjourn

Committee of the Whole **3.**

Meeting Date: 02/14/2013

Issue: Property Assessed Clean Energy (PACE) Program

From: Alison Rogers, County Attorney

Information

Recommendation:

Property Assessed Clean Energy (PACE) Program
(Commissioner Robinson/Alison Rogers - 30 min)
A. Board Discussion
B. Board Direction

Attachments

FL PACR Funding Agency bonding judgment
FGEW Program Handbook (Sept 2012)
Party Membership Agreement
Resolution
Interlocal Agreement

IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, FLORIDA

FLORIDA PACE FUNDING AGENCY, a public body corporate and politic,

Plaintiff,

vs.

THE STATE OF FLORIDA, AND ALL OF THE SEVERAL PROPERTY OWNERS, TAXPAYERS AND CITIZENS OF THE STATE OF FLORIDA, INCLUDING NON-RESIDENTS OWNING PROPERTY OR SUBJECT TO TAXATION THEREIN AND ALL OTHERS HAVING OR CLAIMING ANY RIGHT, TITLE OR INTEREST IN PROPERTY TO BE AFFECTED BY THE ISSUANCE OF THE BONDS HEREIN DESCRIBED, OR TO BE AFFECTED THEREBY, INCLUDING BUT NOT LIMITED TO THOSE OF FLAGLER COUNTY, FLORIDA, PINELLAS COUNTY, FLORIDA, AND THE CITY OF KISSIMMEE, FLORIDA,

Defendants.
_____/

CIVIL ACTION NO. 2011-CA-1824

VALIDATION OF NOT TO EXCEED $2,000,000,000 FLORIDA PACE FUNDING AGENCY REVENUE BONDS (ENERGY AND WIND RESISTANCE IMPROVEMENT FINANCE PROGRAM), VARIOUS SERIES

FINAL JUDGMENT

The above and foregoing cause has come to final hearing on the date and at the time and place set forth in the Order to Show Cause heretofore issued by this Court on the complaint for validation filed by Plaintiff Florida PACE Funding Agency against the State of Florida and the property owners, taxpayers and citizens thereof, including those of Flagler County, Florida, Pinellas County, Florida and the City of Kissimmee, Florida and

including non-residents owning property or subject to taxation therein and all others having or claiming any right, title or interest in property to be affected by the Plaintiff's issuance of not exceeding $2,000,000,000 in aggregate principal amount at any one time outstanding of the Florida PACE Funding Agency Revenue Bonds (Energy and Wind Resistance Improvement Finance Program), in various series (the "Bonds"), hereinafter described, or to be affected in any way thereby, and said cause having duly come on for final hearing, and the Court having considered the same and heard the evidence and being fully advised in the premises, finds as follows:

FIRST. The Plaintiff is authorized under Chapter 75, Florida Statutes, and Chapter 163, Part I, Florida Statutes, including section 163.01(7)(g)9., Florida Statutes, to file its Complaint in this Court to determine the validity of the Bonds, the pledge of revenues for the payment thereof, the validity of the non-ad valorem assessments which shall comprise all or in substantial part the revenues pledged, the proceedings relating to the issuance thereof and all matters connected therewith. All actions and proceedings of the Plaintiff in this cause are in accordance with Chapter 75, Florida Statutes, and Chapter 163, Part I, Florida Statutes, each as amended.

SECOND. The Plaintiff is a valid and legally existing public body corporate and politic within the State of Florida created pursuant to the Florida Interlocal Cooperation Act of 1969, Chapter 163, Part I, Florida Statutes, as amended (the "Interlocal Act") and pursuant to the provisions of a certain duly filed Interlocal Agreement Relating to the

Establishment of the Florida PACE Funding Agency dated as of June 21, 2011 (the "Charter Agreement") initially between Flagler County, Florida and the City of Kissimmee, Florida and subsequently between any additional counties or municipalities joining the Plaintiff as a member. As the context requires, the term "Incorporators" as used herein shall collectively include Flagler County, Florida; the City of Kissimmee, Florida; and any additional counties or municipalities joining the Plaintiff as a member. Such Charter Agreement was received into evidence as Plaintiff's Exhibit "1".

THIRD. Execution of the Charter Agreement was authorized by concurrent resolutions of the Incorporators adopted on June 20, 2011 with respect to Flagler County and June 21, 2011 with respect to the City of Kissimmee (collectively, the "Joint Resolutions"). The Joint Resolutions also provided for and approved Pinellas County, Florida, to subsequently join and become a local government member of the Plaintiff upon adoption by Pinellas County of a resolution substantially similar to and confirming the Joint Resolutions. Copies of the Joint Resolutions were received into evidence as Plaintiff's Exhibit "2".

FOURTH. The Charter Agreement is authorized by the Joint Resolutions, the Interlocal Act and Section 163.08(5), Florida Statutes, has been lawfully entered into and executed by the Incorporators and constitutes a legal, valid and binding agreement of such Incorporators.

FIFTH. The Joint Resolutions lawfully provided for adoption on behalf of the Plaintiff of a Master Bond Resolution setting forth the terms and conditions pursuant to which the Plaintiff shall issue its revenue bonds or other forms of indebtedness. A copy of the Master Bond Resolution was received into evidence as Plaintiff's Exhibit "3".

SIXTH. Authority is conferred upon the Plaintiff, under and by virtue of the laws of the State of Florida, particularly Chapter 166, Part II, Florida Statutes, Chapter 159, Part I, Florida Statutes, Chapter 125, Part I, Florida Statutes, Chapter 163, Part I, Florida Statutes, and other applicable provisions of law to issue its revenue bonds or other debt obligations and advance the proceeds thereof to any Florida "local government" as defined by Section 163.08(2), Florida Statutes, who subscribe to the Plaintiff's programs authorizing the Plaintiff to operate within each such local government's jurisdiction for purposes of financing "qualifying improvements" as defined in section 163.08(2)(b), Florida Statutes.

SEVENTH. The Bonds, or other debt obligations issued by the Plaintiff, enable the Plaintiff, together with subscribing local governments, to lawfully create and administer finance programs related to the provision of (i) energy conservation and efficiency improvements, (ii) renewable energy improvements, and (iii) wind resistance improvements, which are "qualifying improvements" as such defined in Section 163.08(2)(b), Florida Statutes (herein, "qualifying improvements"). The Bonds may be solely secured by the proceeds derived from special assessments in the form of non-ad valorem assessments imposed by the local governments, upon the voluntary agreement of the

record owners of the affected property as authorized by Section 163.08, Florida Statutes (2010) (the "Supplemental Act"). In order to pay the costs of qualifying improvements, the Supplemental Act expressly authorizes the imposition and collection of "non-ad valorem assessments" as defined in Section 197.3632(1)(d), Florida Statutes, which constitute a lien against the affected property, including homestead property, as permitted by Article X, Section 4 of the Florida Constitution.

EIGHTH. The Supplemental Act authorizes local governments (a) to finance qualifying improvements through the execution of financing agreements and the related imposition of non-ad valorem assessments, (b) to incur debt for purposes of providing such qualifying improvements, payable from revenues received from such non-ad valorem assessments or any other available revenue source authorized by law, (c) to enter into a partnership with one or more local governments for purposes of providing and financing qualifying improvements, and (d) to administer, or allow for the administration of, a qualifying improvement program by a for-profit entity or a not-for-profit entity. A copy of the Supplemental Act was received into evidence as Plaintiff's Exhibit "4".

NINTH. The Supplemental Act is additional and supplemental to county and municipal home rule authority and is not in derogation of such authority or a limitation upon such authority.

TENTH. The Supplemental Act includes the following legislative determinations:

(A) In chapter 2008-227, Laws of Florida, the Legislature amended the energy goal of the state comprehensive plan to provide, in part, that the state shall reduce its energy requirements through enhanced conservation and efficiency measures in all end-use sectors and reduce atmospheric carbon dioxide by promoting an increased use of renewable energy resources.

(B) That act also declared it the public policy of the state to play a leading role in developing and instituting energy management programs that promote energy conservation, energy security and the reduction of greenhouse gases.

(C) In chapter 2008-191, Laws of Florida, the Legislature adopted new energy conservation and greenhouse gas reduction comprehensive planning requirements for local governments.

(D) The Legislature finds that all energy-consuming improved properties that are not using energy conservation strategies contribute to the burden affecting all improved property resulting from fossil fuel energy production.

(E) Improved property that has been retrofitted with energy-related qualifying improvements receives the special benefit of alleviating the property's burden from energy consumption.

(F) All improved properties not protected from wind damage by wind resistance qualifying improvements contribute to the burden affecting all improved property resulting from potential wind damage. Improved property that has been retrofitted with

wind resistance qualifying improvements receives the special benefit of reducing the property's burden from potential wind damage.

(G) The installation and operation of qualifying improvements not only benefit the affected properties for which the improvements are made, but also assist in fulfilling the goals of the state's energy and hurricane mitigation policies.

(H) In order to make qualifying improvements more affordable and assist property owners who wish to undertake such improvements, the Legislature finds that there is a compelling state interest in enabling property owners to voluntarily finance such improvements with local government assistance.

ELEVENTH. The Legislature determined that the actions authorized under the Supplemental Act, including, but not limited to, the financing of qualifying improvements through the execution of financing agreements between property owners and local governments and the resulting imposition of non-ad valorem assessments are reasonable and necessary to serve and achieve a compelling state interest and are necessary for the prosperity and welfare of the state and its property owners and inhabitants.

TWELFTH. The non-ad valorem assessments imposed pursuant to the Supplemental Act (a) are only imposed with the written consent of the affected property owners, (b) are evidenced by a financing agreement as provided for in the Supplemental Act which comports with and evidences the provision of due process to every affected property owner, (c) constitutes a valid and enforceable lien permitted by Article X, Section

4 of the Florida Constitution, of equal dignity to taxes and other non-ad valorem assessments and is paramount to all other titles, liens or mortgages not otherwise on parity with the lien for taxes and non-ad valorem assessments, which lien runs with, touches and concerns the affected property, and (d) are used to pay the costs of qualifying improvements necessary to achieve the public purposes articulated by the Supplemental Act. As such, the non-ad valorem assessments imposed pursuant to the Supplemental Act are indistinguishable from and fully equivalent to all other non-ad valorem assessments providing for the payment of costs of capital projects, improvements, and/or essential services (e.g., infrastructure and services related to roads, stormwater, water, sewer, garbage removal/disposal, etc.) which benefit property or relieve a burden created by property in furtherance of a public purpose.

THIRTEENTH. Florida law provides that the amount of any given non-ad valorem assessment may not exceed the benefit conferred on the land, nor may it exceed the cost for the improvement and necessary incidental expenses. Non-ad valorem assessments imposed pursuant to the Supplemental Act are no different than any other non-ad valorem assessment imposed by a local government and therefore may not exceed the cost of the improvement and necessary incidental expenses.

FOURTEENTH. Non-ad valorem assessments imposed pursuant to the Supplemental Act, among other things, meet and comply with the well-settled case law

requirements of a special benefit and fair apportionment required for a valid special or non-ad valorem assessment.

FIFTEENTH. Any non-ad valorem assessments levied and imposed against affected real property must be collected pursuant to the uniform collection method set forth in Section 197.3632, Florida Statutes, pursuant to which non-ad valorem assessments are collected annually over a period of years on the same bill as property taxes.

SIXTEENTH. Non-ad valorem assessments imposed pursuant to the Supplemental Act are not subject to discount for early payment. Avoiding discounts for early payment of non-ad valorem assessments actually lowers the costs of annual collection paid by the affected property owners.

SEVENTEENTH. The Supplemental Act expressly and carefully clarifies and distinguishes the relationship of (i) prior contractual obligations or covenants which allow or are associated with unilateral acceleration of payment of a mortgage note or lien or other unilateral modification, with (ii) the action of a property owner entering into a financing agreement pursuant to the Supplemental Act. The Supplemental Act lawfully recognizes the financing agreement required therein as the means (i) to evidence a non-ad valorem assessment and renders unenforceable any provision in any agreement between a mortgagee or other lienholder and a property owner which allows for the acceleration of payment of a mortgage, note, lien or other unilateral modification solely as a result of (ii) entering into a financing agreement pursuant to the Supplemental Act which thereby

establishes a non-ad valorem assessment. This provision of the Supplemental Act does not result in a contractual impairment of the mortgage or similar lien which differs from any other lawful non-ad valorem assessment as the value of the prior contract (e.g. mortgagee's interest) is not impaired by the financing agreement nor is the prior contract impaired by recognition of the priority of a lien for a subsequent non-ad valorem assessment.

EIGHTEENTH. Even if there is an impairment of contract as a result of the Supplemental Act, such impairment is not substantial nor does it constitute an intolerable impairment, and as such does not warrant overturning the Supplemental Act as there is an overriding necessity for the Supplemental Act. Pursuant to the Supplemental Act, any mortgage lien holder on a participating property shall be provided not less than 30 days prior notice of the property owners' intent to enter into a financing agreement together with the maximum principal amount of the non-ad valorem assessment and the maximum annual assessment amount. The Supplemental Act does not limit the authority of the mortgage holder or loan servicer to increase or require monthly escrow payments in an amount necessary to annually pay the qualifying improvement assessment. The Supplemental Act additionally requires as a condition precedent to the effectiveness of a non-ad valorem assessment, (i) a reasonable determination of a recent history of timely payment of taxes for at least three (3) years, (ii) the absence of any recent involuntary liens or property-based debt delinquencies for at least three (3) years, (iii) verification that the property owner is current on all mortgage debt on the property, (iv) that, without the

consent of the mortgage holder or loan servicer, the total amount of any non-ad valorem assessment for qualifying improvements not exceed twenty percent (20%) of the just value of the property, except that energy conservation and efficiency improvements and renewable energy improvements are not subject to the twenty percent (20%) of just value limit if such improvements are supported by an energy audit which demonstrates that annual energy savings from the improvements equal or exceed the annual repayment of the non-ad valorem assessment, and (v) that any work requiring a license under any applicable law to make the qualifying improvement be performed by a properly certified or licensed contractor. Finally, each financing agreement (or a memorandum thereof) must be recorded in the public records of the county where the property is located promptly after the execution thereof. The Supplemental Act (i) was enacted to deal with broad generalized economic or social problems, (ii) is based on historical principles of law in existence before any affected mortgage or other debt instrument was entered into and operates and will be administered in an area of intense governmental regulation and public scrutiny, and (iii) is, or provides for conditions which are tolerable in light of covenants contained in mortgage and other debt instruments which may otherwise allow for unilateral acceleration.

NINETEENTH. The qualifying improvements and all costs associated therewith funded with the proceeds of the non-ad valorem assessments evidenced by any financing agreement pursuant to the Supplemental Act must convey a special benefit to the real

property subject to the assessment and the cost of the service or improvement must be fairly and reasonably apportioned among such real property. The special benefit necessary to support the imposition of a non-ad valorem assessment may consist of the relief or mitigation of a burden created by the affected real property.

TWENTIETH. Qualifying improvements address the public purpose of reducing, mitigating or alleviating the affected properties' burdens relating to energy consumption resulting from use of fossil fuel energy and/or reduce burdens or demands of affected properties that might otherwise result or manifest from potential wind, storm or hurricane events or damage.

TWENTY-FIRST. The voluntary application for funding to finance a qualifying improvement and entry into a written financing agreement as required by and pursuant to the Supplemental Act provides direct, competent and substantial evidence that each affected property owner has determined and acknowledged that the cost of qualifying improvements is equal to or less than the benefits received or burdens relieved or mitigated as to any affected property and has been provided and received substantive and procedural due process in the imposition of the resulting non-ad valorem assessments.

TWENTY-SECOND. The unique and specific procedures required by the Supplemental Act provide written and publicly recorded evidence that no affected property owner will be deprived of due process in the imposition of the non-ad valorem assessments or subsequent constructive notice that the assessment has been imposed.

TWENTY-THIRD. The Master Bond Resolution authorizes Plaintiff's issuance of not exceeding $2,000,000,000 in aggregate principal amount at any one time outstanding of Florida PACE Funding Agency Revenue Bonds (Energy and Wind Resistance Improvement Finance Program), in various series, in order to provide funds with which to administer an energy and wind resistance improvement finance program and thereby advance the Plaintiff's mission to undertake, cause and/or perform all such acts as shall be necessary to provide a uniform and efficient local platform capable of securing economies of scale and implementation on a state-wide basis if and when embraced by individual local governments to facilitate the provision, funding and financing of qualifying improvements.

TWENTY-FOURTH. The Master Bond Resolution provides that the Bonds will be issued in such amounts, at such time or times, be designated as such series, be dated such date or dates, mature at such time or times, be subject to tender at such times and in such manner, contain such redemption provisions, bear interest at such rates not to exceed the maximum permitted by Florida law, including variable and fixed rates, and be payable on such dates as provided in the various trust indentures to be entered into and by and between the Plaintiff and one or more national banking associations or trust companies authorized to exercise trust services in Florida, to be determined by a resolution of the Plaintiff to be adopted prior to the issuance of the Bonds (the "Indentures").

TWENTY-FIFTH. The Charter Agreement approves the execution of Subscription Agreements by and between the Plaintiff and each of the local governments participating in

the energy and wind resistance improvement finance program (each a "Subscriber"). Subscription Agreements are a lawful means to provide for (a) the authority of the Plaintiff to act, provide its services, and conduct its affairs within the Subscriber's jurisdiction; (b) the Plaintiff to facilitate the voluntary acquisition, delivery, installation or any other manner of provision of qualifying improvements to record owners desiring such improvements who are willing to enter into financing agreements as provided for in the Supplemental Act and agree to impose non-ad valorem assessments which shall run with the land on their respective properties; (c) the Subscriber to levy, impose and collect non-ad valorem assessments pursuant to such financing agreements; (d) the issuance of bonds of the Plaintiff to fund and finance the qualifying improvements; (e) the proceeds of such non-ad valorem assessments to be timely and faithfully paid to the Plaintiff; (f) the withdrawal from, discontinuance of or termination of the Subscription Agreement by either party upon reasonable notice in a manner not detrimental to the holders of any bonds of the Plaintiff or inconsistent with any financing documents related to such bonds; (g) such disclosures, consents or waivers reasonably necessary to use or employ the services and activities of the Plaintiff; and (h) such other covenants or provisions deemed necessary and mutually agreed to by the parties to carry out the purpose and mission of the Plaintiff. A copy of the form of Subscription Agreement to be adopted by each participating local government is attached as Appendix A to the Master Bond Resolution and was received into evidence as Plaintiff's Exhibit "3".

TWENTY-SIXTH. The Subscription Agreements provide a lawful and enforceable means to evidence the express authority and concurrent transfer of all necessary powers to the Plaintiff, and the covenant to cooperate by the Subscriber, so that the Plaintiff may facilitate, administer, implement and assist in providing qualifying improvements, facilitate financing agreements and non-ad valorem assessments only on properties subjected to same by the record owners thereof, develop markets, structures and procedures to finance same, and to take any actions associated therewith or necessarily resulting there from, as contemplated by the Supplemental Act.

TWENTY-SEVENTH. Neither Plaintiff, nor any local government participating in the Plaintiff's program pursuant to a Subscription Agreement, is prohibited from enacting, implementing and operating a non-ad valorem assessment program to finance qualifying improvements under the Supplemental Act by any provision of any agreement between the Plaintiff or any Subscriber and a public or private power or energy provider or other utility provider, since any provision of such agreements are rendered unenforceable if used to limit or prohibit any local government from exercising its authority to operate a program under the Supplemental Act.

TWENTY-EIGHTH. The Master Bond Resolution provides that the principal of, premium, if any, and interest on the Bonds shall be payable solely from the proceeds of non-ad valorem assessments imposed by local governments pursuant to financing agreements with affected property owners as provided for in the Supplemental Act, and

the funds and accounts described in and as pledged and as limited under the Indentures and under the Subscription Agreements to be executed and delivered by the local governments (the "Pledged Revenues").

TWENTY-NINTH. The Pledged Revenues pledged to one series of Bonds may be different than the Pledged Revenues pledged to other series of Bonds.

THIRTIETH. Bonds issued pursuant to the Master Bond Resolution to redeem and/or refund any bonds or other indebtedness of the Plaintiff shall be deemed to be a continuation of the debt refunded or redeemed and shall not be considered to be an issuance of an additional principal amount of debt chargeable against the amount originally validated in this proceeding and authorized to be issued.

THIRTY-FIRST. The Bonds and any series thereof may be issued such that the interest thereon shall not be excluded from gross income of the holders thereof for purposes of federal income taxation, or may be issued such that the interest thereon shall be excluded from gross income of the holders thereof for purposes of federal income taxation.

THIRTY-SECOND. The Bonds and any series thereof may be issued such that the Bonds are or are not further secured by one or more bond insurance policies, letters of credit, surety bonds or other form of credit support.

THIRTY-THIRD. The Master Bond Resolution requires the use of financing agreements in establishing any non-ad valorem assessment in the manner provided for in

the Supplemental Act for each local government participating in the energy and wind resistance improvement finance program.

THIRTY-FOURTH. The Master Bond Resolution provides that the Bonds and the obligations and covenants of the Plaintiff under the Indentures and the Subscription Agreements and other documents (collectively, the "Program Documents") shall not be or constitute a debt, liability, or general obligation of the Plaintiff, the Incorporators, the State of Florida, or any political subdivision or municipality thereof (excluding the local governments to the extent of their respective obligations under their respective Subscription Agreements), nor a pledge of the full faith and credit or any taxing power of the Plaintiff, the Incorporators, the State or any political subdivision or municipality thereof, but shall constitute special obligations payable solely from the non-ad valorem assessments as evidenced by the financing agreements and secured under the Indenture, in the manner provided therein and in any Subscription Agreements. The holders of the Bonds shall not have the right to require or compel any exercise of the taxing power of the Plaintiff, the Incorporators, the local governments entering into any financing agreement with an affected property owner, the State of Florida or of any political subdivision thereof to pay the principal of, premium, if any, or interest on the Bonds or to make any other payments provided for under the Indentures, any Subscription Agreements or the Program Documents. The issuance of the Bonds shall not directly, indirectly, or contingently obligate the Plaintiff, the Incorporators, the State of Florida or any political subdivision or

municipality thereof (excluding the local governments to the extent otherwise provided in their respective Subscription Agreements) to levy or to pledge any form of taxation or assessments whatsoever therefore.

THIRTY-FIFTH. Plaintiff and the general purpose local governments incorporating or acting as members of the Plaintiff 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)(o), Florida Statutes, such local governments may not be held jointly liable for the torts of the officers or employees of the Plaintiff, or any other tort attributable to the Plaintiff or another member of the Plaintiff, and the Plaintiff 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.

THIRTY-SIXTH. Plaintiff is a legal entity separate and distinct from the Incorporators, and neither of the Incorporators, nor any subsequent local government member of the Plaintiff, nor any subsequently participating or subscribing local government shall in any manner be obligated to pay any debts, obligations or liabilities arising as a result of any actions of the Plaintiff, its Board of Directors or any other agents, employees, officers or officials of the Plaintiff, except to the extent otherwise mutually and expressly agreed upon, and neither the Plaintiff, its Board of Directors or any other agents, employees, officers or officials of the Plaintiff have any authority or power to otherwise

obligate either of the Incorporators, nor any subsequent member of the Plaintiff, nor any subsequently participating or subscribing local government in any manner.

THIRTY-SEVENTH. All requirements of the Constitution and laws of the State of Florida pertaining to the issuance of the Bonds and the adoption of the proceedings of the Plaintiff have been complied with.

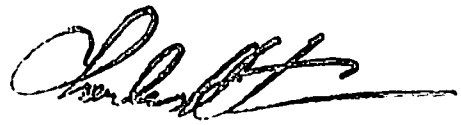
NOW, THEREFORE, IT IS ORDERED AND ADJUDGED that the Bonds, the Charter Agreement, the Supplemental Act, the matters set forth in each of the preceding numbered paragraphs including, but not limited to, the proceedings related thereto, the Master Bond Resolution and the adoption thereof, the revenues pledged or covenanted for the repayment of the Bonds, the validity of the financing agreements entered into and the non-ad valorem assessments imposed pursuant to the Supplemental Act which shall evidence and comprise all or in substantial part the revenues pledged, are hereby validated and confirmed, are for proper, legal and paramount public purposes and are fully authorized by law, and that this Final Judgment validates and confirms the authority of the Plaintiff to issue the Bonds and the legality of all proceedings in connection therewith.

There shall be stamped or written on the back of each of the Bonds a statement in substantially the following form:

> "This Bond was validated by judgment of the Circuit Court for Leon County, Florida rendered on _____, 2011.
>
> _____
> [Officer, Florida PACE Funding Agency]"

provided that such statement or certificate shall not be affixed within thirty (30) days after the date of this judgment and unless no appeal be filed in this cause.

DONE AND ORDERED at the Leon County Courthouse located in Tallahassee, Florida, this 25 day of August 2011.



Circuit Court Judge

Copies to:

Robert C. Reid, Bryant Miller Olive, Counsel for Plaintiff
Mark G. Lawson, Bryant Miller Olive, Counsel for Plaintiff
Christopher B. Roe, Bryant Miller Olive, Counsel for Plaintiff
Jason M. Breth, Bryant Miller Olive, Counsel for Plaintiff
Georgia Anne Cappleman, Assistant State Attorney, Second Judicial Circuit
Ben Fox, Assistant State Attorney, Seventh Judicial Circuit
Damien Kreabel, Assistant State Attorney, Sixth Judicial Circuit
Steve Foster, Assistant State Attorney, Ninth Judicial Circuit

Finance Program Handbook

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Overview

Introduction

The Town of Lantana, pursuant to a U.S. Department of Energy funded grant issued through the State of Florida,in collaboration with the Town of Mangonia Park and other willing city and county partners,has created the Florida Green Finance Authority (the "Authority") as well as the Florida Green Energy Works financing program. The Authority administers the Florida Green Energy Works financing program as well as other similar but separately branded programs sponsored by participating local governments (hereinafter these programs will collectively be referred to as the "Program") in orderto give commercial, and ultimately, residential property owners access to a new form of financing for the installation of certain energy efficiency, renewable energy, and wind resistance improvements ("Qualifying Improvements").The anticipated benefits of completing Qualifying Improvements include reduced operating costs, improved occupant health and comfort, reduced environmental impact, and support forthe local economy.

Thefocus of this Program Handbook is financing for non-residential properties. It is expected that the Program will be extended to residential property once issues with the Federal Housing FinanceAgency (FHFA) are sufficiently resolvedso as not to put homes participating in the Program in jeopardy of qualifying for mortgages approved by Fannie Mae and Freddie Mac.

Nature of this Program Handbook

This handbook details the Program Terms governing all Program participants, including property owners, vendors and lenders. By submitting an Application, applicants warrant that they have read this handbook in its entirety, and that they understand and agree to the terms set forth herein.

Type of Financing

The Program is designed to provide property owners with options for retrofitting their properties, which currently include Property Assessed Clean Energy (PACE) as well as PACE3P™ financing options. PACE is an innovative type of secured financing program that provides funding for energy efficiency, renewable energy,and wind resistance improvements to privately owned buildings. Under the Program, the Authoritymay sell a PACE bond to a qualified investor, use the proceeds to finance the improvements, and place an assessment lien on the property to secure repayment. The assessmentis collected on the property tax bill. Similarly, PACE3P™ is a third-party ownership form of PACE financing where the funds to finance the improvements are brought by Demeter Power Group, Inc., who has responsibility for managing the improvement project for the property owner.

Source of Capital

The Program is using the "open-market" PACE model in which individual **property owners may choose anyproject lenderor provider of funds willing to fund their project**. Property owners negotiate specific financing terms, including the interest rate and repayment term, with their chosen project lender. The Authority uses assessments to repay the project lender.

Security

The assessment obligation is secured by a lien on the property of equal status with the lien for ad valorem property taxes. The Authorityreserves the right to seek to enhance the security of the Program's financing by raising and using funds to establish a Debt Service Reserve Fund (DSRF) that will help cover payment to lenders in the event of assessmentdelinquencies by the property owner. See Chapter7"Application and Approval Process" below, for more information on the DSRF.

Program Process Flow

Appendix A, attached, shows a high-level description of the Program's process flow from beginning to end. It shows the significant stages for the property owner that applies to the Program, and for the Program in response to property owner submissions (the steps are illustratedto show the flow and interaction).

1. Eligible Properties

In order to participate in the Program, a property owner must meet and/or complete the following requirements and steps:

a. The property to be improved with Qualifying Improvements (the "subject property") must be located within the geographic boundaries of a local government in Florida that opts into the Program by becoming a member of the Authority.

b. The Program currently requires that the subject property be non-residential property defined as (i) a property the primary use of which is not residential or (ii) a property used for multi-family housing with five or more units.

c. The property owner must provide written notice of the proposed senior lien to any and all lenders with existing liens on the subject property, and must obtain the written consent/acknowledgment of existing lenders; the Program will provide templates for this purpose but it is the property owners' responsibility to obtain the consent/acknowledgement of the lenders. The owner must submit a copy of the lender's written approvalto qualify for closing on the financing.

d. All owners of fee simple title to the subject property or their legally authorized representatives must sign the Program Documents. Therefore, before submitting an Application, please ensure that all owners (or their representatives) of the fee simple title to the subject property will agree to participate in the Program on the terms set forth in these Program Terms.

e. The property owner must have a professional energyreview("Property Evaluation") conducted on the property that corresponds to the types of Qualifying Improvements the owner is seeking to finance, and those Qualifying Improvements must appear as identified opportunities or recommendations within the resulting Property Evaluation report. The Program reserves the right on a case-by-case basis to review and approve Qualifying Improvements that do not appear as an identified opportunity or recommendation within the Property Evaluation report based on their potential for energy savings and compliance with law. For the initial phase of the Program, the following Property Evaluation and project requirements will apply as outlined below:

   i. If the property owner wishes to finance energy or water efficiency improvementsand/or a renewable energy project through the Program, the owner must obtain aProperty Evaluation from a firm, agency or entity with the appropriate skills and experience for non-residential buildings, to complete the appropriate type of Property Evaluation. See the Program Handbook for requirements for participating evaluators and for details about the type of Property Evaluation required.

   ii. If a renewable energy system is financed, the property owner should also demonstrate that lower-cost and higher value energy efficiency improvementswere evaluated that could result in a 10% improvement in building performance, or demonstrate that the building already meets one of a predefined list of efficiency performance requirements as specified in the Program Handbook.

   iii. If the property owner wishes to finance wind resistance improvement projects only, the owner must, nevertheless,obtain a Property Evaluation from a firm with the appropriate skills and experience for non-residential buildings to evaluatethe appropriate type of wind resistancemeasures for the property. The property owner will also receive information regarding energy efficiency and renewable energy at that time but will have no obligation to install such improvements.

f. The property owner will be encouraged (as described below) to participate in appropriate state and local incentive programs to the extent the subject property is eligible for such programs at the time of application. For example,

property owners planning to finance the installation of a solar PV system will be encouragedto participate in the Florida Power & Light photovoltaic ("PV") rebate program (if available) with respect to the subject property. Property owners will also be encouraged to participate in similar incentive programs for solar thermal (hot water) systems and energy efficiency improvements. Property owners will be encouraged to participate in other utility rebate and incentive programs (if available) that cover the Qualifying Improvements, but may elect not to do so. See Chapter 6 of this Program Handbook for more detail.

g. The financed improvements must be Qualifying Improvementsas defined in Section 163.08, F.S. and this Handbook and must be installed by a contractor that meets the Program's qualification criteria ("Contractors"). See Chap. 2 "Eligible Property Improvements" below.

h. The property owners must agree to provide the Authority with access to the property's utility usage information to determine energy and/or water savings. The owner must further agree to participate in surveys and Program Property Evaluations directed by the Authority.

i. The property owner must use the no-cost ENERGY STAR online energy-use benchmarking service called Portfolio Manager or another similar program or evaluation methodology approved by the Program for benchmarking so owners have access to the raw data necessary to determine if the installed improvements are delivering the expected energy and cost savings. (Determining whether or not installed improvements are meeting projections is encouraged, but may require additional analysis by professionals and any such additional services would be the responsibility of the owner). See Chapter 10 of this Program Handbook for more detail.

j. The property owner must certify that it (and its corporate parent if the property owner is a single-purpose entity) is solvent and that no proceedings are pending or threatened in which the property owner (or the corporate parent, as applicable) may be adjudicated as bankrupt or become the debtor in a bankruptcy proceeding, or discharged from all of the property owner's (or corporate parent's, as applicable) debts or obligations, or granted an extension of time to pay the property owner's (and the corporate parent's, as applicable) debts or a reorganization or readjustment of the property owner's (and the corporate parent's, as applicable) debts. The property owner must also certify that the property owner (or any corporate parent if the property owner is a single-purpose entity) has not filed for or been subject to bankruptcy protection in the past three years.

k. The property owner must be current in the payment of all obligations secured by the subject property, including property taxes, assessments and tax liens, within the past 3 years (or since taking title to the subject property

if it has been less than 3 years). The Authority may review public records, including the real property records, to verify compliance with this requirement. Certain allowances may be made for property tax payment delays that do not reflect financial distress. Properties that are currently appealing a property tax assessment will be reviewed and eligibility will be determined on a case-by-case basis.

l. There must be no notices of default or foreclosure, whether in effect or released, due to non-payment of property taxes or loan payments filed against the subject property within the last 3years (or since ownership, if less than 3years). Exceptions may be granted on a case-by-case basis.

m. The property owner must not have any involuntary liens, defaults or judgments applicable to the subject property. The Authority may review public records, including the real property records and court documents, to verify compliance with this requirement. A property owner with an involuntary lien(s) may be allowed to participate in the Program if it can demonstrate an acceptable reason for the lien, default or judgment and a path for resolution along with supporting documentation. A property with an involuntary tenant's lien will be reviewed and eligibility will be determined on a case-by-case basis.

n. The value of the property (based on current assessed value, or recent (within 90 days of the Program application) appraised value determined by anAuthority-approved appraiser) plus the value of the Qualifying Improvements financed by the Program must be equal to or greater than the sum of (i) the total private property debt including mortgages and maximum draw amount of any equity lines of credit secured by the property, (ii) the principal amount of any Program indebtedness attributable to the property, and (iii) the aggregate principal amount of any fixed assessment liens or other assessment debt on the property (not including Program assessments).

o. The property owner must certify that the property owner is not party to any litigation or administrative proceeding of any nature in which the property owner has been served, or is pending or threatened which, if successful, would materially adversely affect the property owner's ability to operate its business or pay the assessments when due, or which challenges or questions the validity or enforceability of documents executed by property owner in connection with the Program.

p. The Program may involvethe issuance of bonds by the Authority. Therefore, it is important that property owners pay their assessments and other property-related obligations in full on a timely basis. Consequently, the Authority reserves the right to request additional information in its sole discretion and to deny applications based on any information that reflects on the likelihood that a property owner may not pay assessments.

2. Eligible Property Improvements

In general, in order for property improvements to be eligible for financing through the Program, they must have a useful life of five years or longer, be affixed to a building or facility that is part of the property and constitute an improvement to the building or facility or a fixture attached to the building or facility. The Qualifying Improvements must also either reduce consumption through conservation or a more efficient use of electricity, natural gas, propane or other forms of energy upon the property or further wind resistance capabilities for the property.

Common Improvements

The Program has an extensive list of common energy efficiency (*EE*), renewable energy (*RE*), water efficiency (*WE*) and wind resistance(*WR*) property improvements that are eligible for financing, which can be found in the separateQualifying Improvements List document organized by these categories. The improvements are further organized into system and subsystem groupings for easier navigation within the list.The list is not meant to be exhaustive but can be updated as new improvement technologies and products enter the market.

Custom Improvements

The Program will also consider,on a case-by-case basis,other improvements (a.k.a. *custom improvements*) that do not appear in the Qualifying Improvements List. Such custom improvements will require additional technical review by the Program if they are not covered by an incentive program that approves them, likely at additional cost for the applicant(which may typically be financed as part of a project at closing). SeeChap6 "Participation in Rebate/Incentive Programs", below, more information about incentive programs.

Ineligible Improvements

Improvements that are not attached to the real property or building and can be easily removed are not eligible for financing through the program (e.g., screw-in fluorescent light bulbs). Any improvement that cannot be explained in terms of industry-standard engineering or scientific principlesis also not eligible.See the *Ineligible Improvements* page of the Qualifying Improvements List for the short list of what qualifies as being ineligible.

Loading Order Recommendation

Property ownersare encouraged, but not required, to apply a loading orderwhen seeking to install eligible on-site renewable energy systems, such as solar photovoltaic (PV) systems.

Essentially,a loading order is intended to assure that, before installing a renewable energy system, the property should firstevaluate options to reduce its total energy demand – for example, by 10% – by implementing energy efficiency improvements

identified in the Property Evaluation. Energy efficiency improvements are typically less expensive on a per kWh basis (i.e., cost per kWh saved through efficiency is less than the cost per kWh generated through renewable energy), and decreasing energy demand usually makes it possible to decrease the size (and cost) of the desired renewable energy system. Consult with the Program Administrator for approaches to the loading order.

Responsibility for Qualifying Improvements

The Programis a financing program only. By establishing theQualifying Improvements List, the Authority is not recommending nor warranting any particular improvements. Neither the Authority nor the Administrator is responsible for the improvements or their performance.

Property owners are solely responsible for the improvements installed on their property. Should there be any unsatisfactory performance or other system-related issues that arise during or after installation, the property owner must address those directly with the responsible contractor according to the terms of the contract between the two parties.

The Program's PACE3P™ option is offered by Demeter Power Group, Inc., and any improvements installed utilizing PACE3P™ shall be governed solely by a separate agreement executed between the property owner and Demeter Power Group, Inc. Neither the Authority nor the Administrator is responsible for the improvements or their performance. Should there be any unsatisfactory performance or other system-related issues that arise during or after a PACE3P™ financed installation, the property owner must address those directly with Demeter Power Group, Inc. according to the terms of the contract between the two parties.

Minimum and Maximum Project Funding

The Authority requires a minimum funding request of $10,000. The Authority will only authorize funding requests in an amount equal to the final cost of installing the Qualifying Improvements (including the Property Evaluation fee and closing costs imposed by the Program and by capital providers) plus the additional items identified in Chap 12 "Financing Cost; Interest Rate", below. Funding amounts may not exceed the available equity in the property as described in Section 1.n. above. The funding limits are per property per financing request.

3. Eligible Vendors

Registered Vendors

There are two primary types of vendors that may participate in the Program: Evaluatorsand Contractors.

Selecting AnEvaluator

The commercial building energy audit market is fragmented, with no universally accepted standards for auditors (referred to in the Program as "Evaluators"). Although the Program does not endorse specific Evaluatorsor accreditation programs, it has compiled some recommendations for selecting a qualifiedEvaluator and havinga suitable Property Evaluation conducted on the subject property. See Appendix B – Guidance for Selecting Evaluator and Appendix C – Property Evaluation Types for more details.

Selecting A Contractor

The Qualifying Improvements must be installed by contractors who meet the registrationcriteria set forth for the specific category of work being financed:

- Energy and water efficiencyimprovements must be installed by licensed contractors.
- Renewable energy projects must be installed by licensed contractors.
- Wind resistanceimprovements must be installed by licensed contractors.

The Authority may provide lists of contractors who have satisfactorily registered for participation in the Program, but the Authority does not warrant the work of any such contractor. The Authority encourages property ownersto do their research and receive bids from multiple contractors before signing a contract. Neither the Authority nor the administrator is responsible for determining the appropriate equipment, price or contractor for aproperty. By establishing these contractor registrationcriteria, the Authority is not recommending a particular contractor or warranting the reliability of any such installer. The Program is a financing program only. Neither the Authority nor the administrator will participate in the resolution of any dispute between a property ownerand theirinstaller or equipment manufacturer.

4. Eligible Project Lenders

Lenders must be qualified to provide the type of financing contemplated by a project transaction, which may be deemed an issuance and purchase of a bond as detailed in the Authority's bond documentation, a sample of which can be provided upon request. Generally, basic qualification criteria includes that the lender is one of the following:

a. An "accredited investor" as defined by Rule 501(a) promulgated under the Securities Act of 1933; or
b. A "qualified institutional buyer" as defined in Rule 144A under the Securities Act of 1933; or

c. A bank, savings institution or insurance company; or
d. Acertain trust, custodial or similar arrangements conforming with the requirements of the bond documentation.

5. Energy, Water And/Or Wind Resistance Evaluations

Energy Evaluations

The Program requires property owners seeking to finance energy efficiency or renewable energy improvements through the Program to receive a Property Evaluation conducted by a professional Evaluator of the owner's choice and at the owner's cost. Note that the cost of the energy evaluation can be included in the financing. TheEvaluator must meet Program eligibility requirements (see Appendix B, "Guidance for Selecting Evaluators", for more detail).

The energy audit report will include a written report of recommended energy efficiency (*EE*), renewable energy (*RE*) or water efficiency (*WE*) measures with calculations for the expected cost of the improvements and the projected energy or water savings. The energy review will list recommended*EEs, REs, or WEs* appropriate for the property owner. At a minimum, this review will present the following information on a standard summary sheet required by the Program:

1. Recommendations for energy savings measures;
2. Estimated energy savings and a priority ranking for each measure;
3. Estimated renewable energy to be produced (if applicable);
4. Estimated greenhouse gas reductions; and
5. Estimated cost savings resulting from the implementation of the recommendations and use of funds made available by the Program

The improvements for which the property owner is seeking financingshould be supported as opportunities or recommendations within the resulting Property Evaluation report. The Program reserves the right on a case-by-case basis to review and approve improvements that do not appear as an identified opportunity or recommendation within the evaluation report.

The type of energy evaluation that the Program requires the property owner to conduct on its property depends on the number of improvements and total estimated project cost. The Program has organized these into three *evaluation tiers* for easier reference. See Table 1 below for the resulting evaluation tiers and thresholds.

Table 1 - Program Energy Evaluation Tiers

Energy Evaluation Tier	Evaluation Type[1]	# Improvements	Project Cost
Tier 1	Targeted Audit	1	Any amount
Tier 2	ASHRAE Level I	2 or more	Less than $100k
Tier 3	ASHRAE Level II	2 or more	Equal to or more than $100k

For building owners who may want to use Energy Savings Performance Contracts (ESPC) to implement the identified energy savings measures, they should select an auditor capable of providing performance contract services, typically called an Energy Service Company (ESCO).

The targeted evaluation and *ASHRAE* evaluation types referenced in the above table are fully described within Appendix B- Energy Evaluation Types.

Each energy review performed in connection with financing through the Program must also include post-project evaluation no more than 12 months after the initial evaluation to verify results of project.

Water Evaluations

The Program requires properties seeking to finance water efficiency improvements through the Program to receive a waterevaluation conducted by a professional water Evaluator of the owner's choice, or that the measures be included on the energy Property Evaluation as described above. The Evaluator must meet Program eligibility requirements (see Appendix B, "Guidance for Selecting Evaluators" for more detail). Note that the cost of the water Property Evaluation can likewise be included in the financing.

At a minimum, this review will present the following information on a standard summary sheet required by the Program:

1. Recommendations for water savings measures;
2. Estimated water savings and a priority ranking for each measure;
3. Estimated cost savings resulting from the implementation of the recommendations and use of funds made available by the Program.

The improvements for which the property owner is seeking financingshould be supported as opportunities or recommendations within the resulting Property Evaluation report. The Program reserves the right on a case-by-case basis to review and approve improvements that do not appear as an identified opportunity or recommendation within the Property Evaluation report.

[1] The Authority will also accept the technical equivalent of an ASHRAE evaluation. Some financing projects may require ASHRAE Level III depending on the amount financed and complexity of the projects.

Each water efficiency review performed in connection with financing through the Program must also include post-project evaluation no more than 12 months after the initial evaluation to verify results of project.

Wind Resistance Evaluations

The Program requires property owners seeking to finance wind resistance improvements to obtain a wind resistance review performed by a licensed professional engineer or, in certain cases, by a licensed contractor (see Appendix B, "Guidance for Selecting Evaluators", for or more detail).

At a minimum, this review will present the following information on a standard summary sheet required by the Program:

1. Recommendations for wind resistance measures;
2. Estimated increases in wind resistance and a priority ranking for each measure; and
5. Estimated insurance or other cost savings resulting from the implementation of the recommendations and use of funds made available by the Program.

Purpose and Benefits

Property ownersshould use the resulting Property Evaluation report(s) to identify and prioritize building-specific energy and wind resistance improvement opportunities and to predict associated cost/energy/water/insurance savings. The Program also uses the Property Evaluation report(s) as a third-party check that the selected improvements for implementation are appropriate for the property and its unique context, thus reducing Program and participant costs.

Visit www.citizensfla.com for more detail about insurance benefits of wind resistance improvements.

6. Participation in Rebate/Incentive Programs

Depending on the types of improvements that the property owner is including in their projects financed through the Program, the property owner mayparticipate in applicable rebate and/or incentive programs offered through the State,local utilities, federal, or associated third-party programs.

Benefits

Rebate and incentive programs reward participants with cash payments or tax credits for implementing improvements that, for example,reduce energy(or water) usage, thus reducing a property owner's project cost. Leveraging such existing programs can help reduce overall program costs by providing credible savings projections, quality control and assurance, and project inspection servicesat no additional cost that maximize project benefits.

Participation Is Encouraged But Not Required

Property owners seeking financing through the Program are encouraged, but not required, to participate in rebate or incentive programs thatare or may be available.

Given the benefits associated with such programs, the Program anticipates that most property owners will elect to participate in all applicable rebate and incentive programs that cover improvements in their properties. The Program strongly encourages such participation, but does not require it in order to give property owners maximum flexibility.

Reasons some property owners may choose not to participate in applicable rebate or incentive programs may include:

- The rebate/incentive amount is small compared to the time and effort involved in applying for such.
- The rebate/incentive program possibly introduces delays (e.g., for project review, approval, inspections, etc.) that the project cannot accommodate.

Consequences of Nonparticipation in Optional Programs

Because rebate and incentive programs can act as a third-party check for the Program on the validity of the property owner's improvements and their likely energy savings, participation in such programs reduces the Program's costs for project review, verification and quality assurance/control (QA/QC) activities. Therefore, **property owners whoelect not to participate in such rebate or incentive programs may incur additional fees to cover the Program'scosts in conducting activities normally performed by such programs.**The Authority reserves the right to impose these fees, which may vary depending on the type and complexity of improvements included in the project. See Appendix D – Program Costs/Fees for a summary of possible additional fees.

7. Application and Approval Process

Program Costs/Fees

There are a number of direct and indirect costs and fees associated with the Program. Some of these are mandatory fees, whereas a few are conditional depending on what type of financing is being utilized (PACE or PACE3P™), what improvements are being undertaken, what rebate or incentive programs are being utilized, and what method of property valuation is chosen. Most of these can be included in the financing. See Appendix D – Program Costs/Fees for a breakdown of Program costs and fees.

Debt Service Reserve Fund

The Authority reserves the right to raise and/or charge feesfor use inestablishing and funding a Debt Service Reserve Fund (DSRF) for each financing project in order to provide greater security (lower risk) for project lenders. For some lenders, this

reduced risk may support the ability to offer better financing rates and terms to property owners participating in the Program. Other lenders may not find the DSRF useful in impacting rates.

If the Authority elects to offer a DSRF option and there are sufficient DSRFfunds, each project approved by the Program has the option to a standard allocation for a DSRF equal to 10 percent of the total requested financing amount, with a maximum DSRF allocation of $100,000 for any single project (which, at 10 percent, would support up to a $1 million project financing).

The Program will consider requests that exceed the $100,000 maximum DSRF allocation on a case-by-case basis, as well as allocations greater than the standard 10 percent. Project lenders may also decline to receive an allocation from the DSRF, if they so choose.

Application Process

The Program's application process is a multi-step process that is facilitated through the Program website. Property owners must first assess their eligibility for financing based upon criteria as listed on the Program website and as detailed in Chapter 1. Upon confirmation of eligibility by the Authority,property owners must complete necessary steps in the financing process in order to be fully approved.

Step 1: DetermineEligibility

This step is a simple process for property owners to quickly indicate their interest in participation and to submit preliminary details regarding their property via the Program website. This gives the Program the ability to promptly ascertain project eligibility as well as give owners the preliminary indication that their property meets program requirements. The eligibility determinationmay include a request for an allocation from the Debt Service Reserve Fund, if desired and if offered by the Program. The Program has developed eligibility criteria"checks" and consent forms to be completed through the Program website that must be satisfied in order tocomplete this step.

Information to be sought with eligibility determination:

- **Applicant information**: property owner name, mailing and physical address, property type (confirmed non-residential use), mortgage and other property liens; confirmation of property eligibility criteria (see Chapter 1).
- **Relevant Consents**: the property owner must agree to release and permit ongoing usage of electricity data by the Authority and third-parties participating in the Program and must agree to share their contact information with prospective vendors and Program participants.

The Program will review the property owner's eligibilityinformation and related items within two (2) business days and determine if all initial eligibility requirements are met. Upon confirmation of initial eligibility, the property owner will be encouraged to take all necessary steps to participate in the Program..

Approval of the financeapplication will establish ultimate eligibility for funding disbursements.

Step 2: Obtain an Appropriate Property Review

As a threshold matter, a property owner must obtain a property review which focuses on the specific improvements that are proposed to be made at the property (e.g., a Property Evaluation for proposed energy efficiency projects). The property review must be obtained from a vendor registered with the Program. The review must be submitted to the Program, accompanied by the Program's standard cover sheet for reviews which requires the reviewer to clearly identify all recommended measures (in order of priority), their anticipated cost, anticipated savings resulting from the measure, and other information detailed in Section 5 "Energy, Water And/Or Wind Resistance Evaluations."

Step 3: Underwriting

Once the property review is received, the Program will underwrite the proposed loan to determine if it meets requirements for financing. The Program will order a title report on the property to verify ownership and any existing liens. Program staff will also verify that the measures recommended by the energy review meet Program guidelines.

Step 4: Lender Approvals and Documentation

Once the property passes underwriting and is approved for participation in the Program, the property owner is responsible for lining up two required elements relating to lenders. First, the owner must obtain a consent and estoppel from their existing mortgage holder(s) authorizing the project and the PACE assessment lien. Second, the owner must, in cooperation with Program staff, solicit and review financing offers from various eligible financing sources to select a lender for the project. Once the terms of the financing are finalized, Program staff will prepare a package of documents to be executed by the property owner, including the Financing Agreement and any required disclosure documents. The property owner should execute the entire package of documents prior to commencing the improvement work. A memorandum of the financing agreement is recorded on the public records of the county in which the property is located within 5 days after execution of the documents.

Approval of financing through the Program is not available unless the property owner obtains the consent of all holders of mortgage liens on the property. Approval or denial will be based on the eligibility and underwriting requirements listed within this handbook, and does not guarantee that a property will be approved for funding by any particular lender. If an owner proceeds with installation before notification of lender approval or satisfaction of the

requirements described in this section, the owner risks incurring the cost of installation without the benefit of Program financing.

Step 5: Project Completion and Disbursement

With the financing documentation executed, the property owner is able to move forward with the project. The improvements must be performed by contractors registered with the program. When the project is complete, the owner submits the following items to the Program:

- Certificate of owner confirming completion and the total cost of the improvements.
- Copies of closed permits for the improvements.
- Final lien waiver from contractor(s).
- Copies of invoices confirming the final cost of the improvements.

Once the project is completed, funds are disbursed to pay all expenses of the project. Project installation costs are generally paid directly to the contractor(s). Third party expenses such as recording fees and the title search fee are paid directly to the vendors. The cost of the property review is refunded by a payment to the owner. Following final disbursement, the complete executed Financing Agreement is recorded in the public records of the county in which the property is located.

Tasks and Deadlines for Submitting Application

Related to the items to be submitted with the Application, there are three major tasks that must be accomplished between determination of eligibility andfunding of the project costs. Completing these tasks by certain deadlines (or receiving deadline extensions from the Program) is necessary in order to maintain eligibility. The property owner must make progress toward completing these tasks within a certain timeframe relative to when eligibility was determined. Those tasks, and their associated deadlines, are listed in Table 4 below.

Table 4 – Tasks & Deadlines for Maintaining Program Eligibility

Task	Description	Deadline*
1. Property Review	Have an appropriate Property Review conducted on the property by a professional, and determine final project scope and financing amount.	Within 30 calendar days of eligibility determination
2. Lien Holder Approval	Obtain lender approval from all existing mortgage or lien holders on the property for participation in the Program.	Within 90 calendar days of property review completion
3. Project Lender	Identify a project lender that will provide financing for the project.	Within 90 calendar days of property review completion

**Exceptions to the above deadlines may be granted on a case-by-case basis if the Program determines that the applicantis making good progress toward completing these tasks.*

Addressing DSRF Underestimates (If Applicable)

If the DSRF amount that the applicant originally requested is underestimated (i.e. increases between eligibility determination and final determination of project costs), the Program may or may not be able to allocate additional funds from the DSRF to cover the difference. There are several options to rectify this, as detailed below:

1. The applicant can contribute funds to the DSRF to cover the gap (and such funds can be added to the total amount financed; if there are never any payment defaults, applicant would get these funds back when financing was paid off).
2. The applicant can adjust the agreement with the project lender for the lender to accept less DSRF coverage (which may result in a change of related interest rate or terms).
3. The applicant can reduce the scope of the project and the associated amount of needed financing such that the original DSRF gives sufficient coverage.
4. The applicant can contribute capital (e.g. internal funds) to reduce the project costs such that the remaining amount being financed is sufficiently covered by the original DSRF estimate.

8. Requesting Funding Disbursement

Funding Disbursement Types

After a registeredcontractor has completed installation of the Qualifying Improvements on the subject property or has reached a milestone at which a progress payment is permitted (see "Progress Payments" below), the ownermust submit a funding disbursement request and the project verification documents listed below in order to receive funding from the Program. The Administrator will review the funding request and the project verification documents, and produce Program forms. The Program forms will be sent to the ownerwithin five (5) business days after submission of a funding request accompanied bythe project verification documents. The ownermust return the executed Program forms to the administrator within seven (7)calendar days. The project verification documents are listed below.

Project Verification Documents (submitted by the ownerwith afunding request)

a. A signed final permit inspection from the appropriateCity's Department of Building Inspection for applicable completed projects;
b. A final invoice from all contractors (or, for progress payment, an invoice stating percentage of work complete; see "Progress Payments" below);
c. A completed final lien waiver from all contractors (or, for progress payments, a partial lien waiver relating to the percentage of work complete); and
d. Confirmation of enrollment of property with ENERGY STAR Portfolio Manager (see Chap. 10 (Measurement & Verification).

All funding requests will be deemed final upon submission of the required documentation listed above and may not be subsequently changed.

In the event a property owner cancels financing after a request for funding is submitted to the Authority, all expenses incurred by the Authority for recording tax liens, preparing bond or other financing documents and removing tax liens will be the responsibility of the applicant. The Authority will terminate the lien evidenced by recordation of the Financing Agreement upon receipt of reimbursement from the applicant for these expenses.

Table 1 – Related Disbursement Request Items to be Submitted

Progress Payment:	Final Payment:
• Applicable permit(s) • Invoices, cost statements, or equivalent from contractors showing progress • Partial lien waivers • Check made out to the Florida Green Finance Authority for progress payment processing*	• Applicable finalized permit(s) • Final invoices, cost statements, or equivalent from contractors • Full lien waivers from all contractors • Receipts, statements, purchase orders, or other evidence of actual cost for items not covered in contractor invoice

*Please consult the Authority for amounts listed in the Program Fee Schedule.

The Program will review the submitted disbursement request and associated items and, upon approval, issue payment.

Progress Payments

The Authority will consider making progress payments in certain circumstances on a case-by-case basis. In general, the Authority may agree to make progress payments before the installation of the Qualifying Improvements is complete if certain criteria are met, which may include (i) the amount financed is in excess of a minimum amount, (ii) the time required to install the Qualifying Improvements exceeds a certain length of time, (iii) the amount of each progress payment is a minimum percentage of the total cost of the Qualifying Improvements to be financed by the Program and (iv) based on a certification of the contractor, the percentage of the total amount to be financed that will have been disbursed by the Authority after disbursement of the progress payment will not exceed the percentage of the installation work that has been completed.

Program Participation Expiration

If the Authority approves anapplication, theapproval will be effective for 360 calendar days. Property owners that receive Program approval must have a registered contractorcomplete installation of the Qualifying Improvements on the

subject property and complete the financing process within this period. If the ownerfails to have a registered contractorcomplete the installation of Qualifying Improvements on the subject property within the 360-day period, the owner'sProgram approval will expire. An ownermay request to extend Program approval prior to its expiration for an additional 90 days. However, the ownerwill have to pay an extension fee.

An applicant may cancel a Program approval in writing during the 360-day period, but will forfeit the application fee (if applicable) and the opportunity to receive funding under that approval. The applicant may reapply but will not be guaranteed funding availability and will be requiredto pay an additional application fee.

9. Quality Assurance and Quality Control (QA/QC)

In order to ensure that financed property improvements are properly completed and are able to deliver expected savings and benefits, the Programrecommends that property owners either participate in existing utility rebate or incentive programs (where available and applicable) that have their own verification/inspection mechanisms, or submit to and pay for other third-party site inspections (service providers may be retained by the Program for this purpose). The cost of quality assurance / quality control provided by the Program's providers will be collected at closing, and may be included in the financed amount.

The Program and/or the partnerproject lendermay require additional inspections if the property owner requests progress payments be made before final payment – also at additional cost.

10. Measurement and Verification (M&V)

The Program requires property owners to enroll in the free energy usage tracking and benchmarking service called ENERGY STAR Portfolio Manager which provides access to the data necessary to determine how the installed improvements are performing over time, and how their building is performing relative to its peers.

The Program reserves the right to require property owners to utilize additional data collection tools developed for the Program and to require property owners to grant the Authority access to their ENERGY STAR Portfolio Manager accounts for a minimum period of three years after project completion so that the Authority can analyze project performance and gauge program effectiveness. Information received under this provision shall remain confidential, except that the Program may release data regarding Program performance in aggregate or in a manner that is not individually identifiable.

Property owners and project lenders are encouraged to conduct more detailed performance analysis on their own to ensure continued cost and energy savings.

11. Description of Financing/Legal Documents

The following table summarizes the Program's major legal documents.

Table 5 - Major Financing/Legal Documents

Document	Description	Timing
Lender Consent and Estoppel	Executed by a property owner's existing mortgage lender/lienholder, whereby that existing lender/lienholder (i) consent to the levy of special assessments and the creation of the assessment lien and (ii) agrees that the proposed assessment lien will not constitute an event of default of trigger the exercise of any remedies under the loan documents in force between the existing lender/lienholder and the property owner.	Closing
Financing Agreement& Memo of Financing Agreement	Document pursuant to which the property owner agrees to the levy of assessments for purposes of the issuance by the Authority of an assessment bond to a project lender. The Memo of Financing Agreement is recorded in the real property records to provide notice of a lien securing payment of assessments on the property.	Closing
Bond Purchase Agreement or other finance agreement	A contract between the Authority and the lender, pursuant to which the lender (i) agrees to advance funds to the Authorityfor completion of the project and (ii) makes representations and warranties that it is a "qualified investor". This contract also reflects the basic financing terms agreed between the lender and the property owner.	Closing

12. Financing Cost; Interest Rate

The following terms are helpful in understanding the Program's financing structure.

Financing Cost. In order to receive funding, an ownerwill agree to pay assessments in an amount equal to (i) the principal amount received through the Program, (ii) interest on the principal amount received through the Program and (iii) initial and on-going program expenses summarized in Appendix C. The Authority expects to levy assessments on theproperty tax bill, although it reserves the right to bill or collect assessments separately.

Principal Amount. This is the amount equal to all project costs an ownerchooses to finance, which may include costs associated with implementing

the project such as permits, evaluation expenses, application fee, an applicable deposit to a debt service reserve fund if required and capitalized interest (see "Stub PeriodInterest" below).

Interest Rate. The rate of interest on the financed amount will be negotiated between the ownerand the financial institution selected by the owner.

Stub PeriodInterest. Interest accrued on the financed amount between the date of closing and the beginning of the first repayment period will be collected at closing.

Deposit to a Debt Service Reserve Fund.Adebt service reserve fund (DSRF)may be required by yourchosen lenderas additional security to participating financial institutions to pay debt service on the bonds in the event of late payments or default by the property owners. TheAuthority may permit property owners to finance a reasonable deposit to a DSRF, if a DSRF is required by the lender identified by you.

Initial and On-going Program Administrative Costs. Program Administrative Costs are built into the total financed amount and the ongoing assessment requirement (which increases the effective interest rate you will pay). The fees for any specific project will be disclosed and agreed to prior to financing.

13. Important Legal Considerations

Repayment Terms

Following recordation of the Financing Agreement, the property owner will be obligated to pay the assessments specified in the Financing Agreement.

Assessments

A property owner must pay the agreed-upon assessments regardless of personal financial circumstances, the condition of the property, or the performance of the Qualifying Improvements. Owners shouldnot apply for financing unless they are certain theycan pay the assessments. **The failure to pay anassessment in full will result in financial repercussions, including penalties, interest and, potentially, foreclosure of theproperty by the Authority.**

Tax and Insurance Escrow

If an owneruses an escrow account to pay annual property taxes, the ownermust notify theescrow company of theassessment payments. The ownerwill be requiredto increase themonthly payments to the escrow account by an amount equivalent to theannual assessments divided by 12.

Compliance with Existing Mortgages

Recordation of the Financing Agreement will establish a continuing lien as security for your obligation to pay assessments. The lien securing the obligation to pay assessments will be senior to all private liens, including anyexisting mortgage(s). Many mortgage and loan documents limit the ability of a property owner to place senior liens upon property without the consent of the lender, or authorize the lender to obligate you to prepay the senior obligation. **As a condition to receiving financing through the Program, a property owner must obtain a consent from each existing mortgage holder authorizing the imposition of the assessment lien and confirming that participation in the Program will not adversely impact your rights with respect to any existing loan documents, or obligate you to prepay your assessments.**. The Program will provide lender acknowledgment/consent templates, but addressing issues with existing lenders is the property owners' responsibility.

Transfer or Resale of the Subject Property

If a property improved using funds financed through the Program is sold prior to the end of the agreed-upon assessment period, the new owner will assume the assessment obligation. Ownership of any Qualifying Improvements on the subject property will transfer to the new owner at the close of the real estate sale; Qualifying Improvements financed through the Program may not be removed from the property until the bond issued by the Authority to finance installation of the Qualifying Improvements has been retired. Program participants agree to make all legally required disclosures about the existence of the assessment lien on the property in connection with any sale.

Rebates and Taxes

Participation in this Program does not reduce rebates available through federal, State or local rebate programs.

Each participating owner shouldconsult with tax advisors with respect to the State and federal tax implications of participating in the Program.

Neither the Authority nor the administrator is responsible for the State or federal tax consequences of participating in the Program.

Changes in State and Federal Law

The Authority's ability to issue bonds to finance the Program is subject to a variety of State and federal laws. If those laws or the judicial interpretation thereof changes after an owner hasapplied for funding but before the Authority issues a bond to finance thefunding request, the Authority may be unable to fulfill thefunding request. **The Authority shall have no liability as a result of any such change in law or judicial interpretation.**

Changes in the Program Terms; Severability

The Authority reserves the right to change these Program Terms at any time without notice; however, no such change will affect an owner'sobligation to pay assessments as set forth in the Financing Agreement. An owner'sparticipation in the Program will be subject to the Program Terms in effect from time to time during theirparticipation.

If any provision of these Program terms is determined to be unlawful, void, or for any reason unenforceable, then that provision shall be deemed severable from these Program terms and shall not affect the validity and enforceability of any remaining provisions.

Disclosure of Property Owner Information

Property owner agrees that the Authority may disclose its personal/corporate information submitted as part of the Program to the administrator, and that the Authority and the administrator may disclose the property owner's information to third parties when such disclosure is essential to the conduct of the Authority's business or to provide services to the property owner, including but not limited to where such disclosure is necessary to (i) comply with the law, legal process or our regulators, and (ii) enable the Authority or the administrator's employees or consultants to provide services to the property owner and to otherwise perform their duties. The Program will not provide property owner information to third parties beyond the Program administrative team for any telemarketing, e-mail or direct mail solicitation.

Each property ownerfurther agrees to the release of property owner's name and contact information and the property's utility usage data to the Authority, its member municipalitiesand its designated contractors for the purpose of conducting surveys and evaluation of the Program.

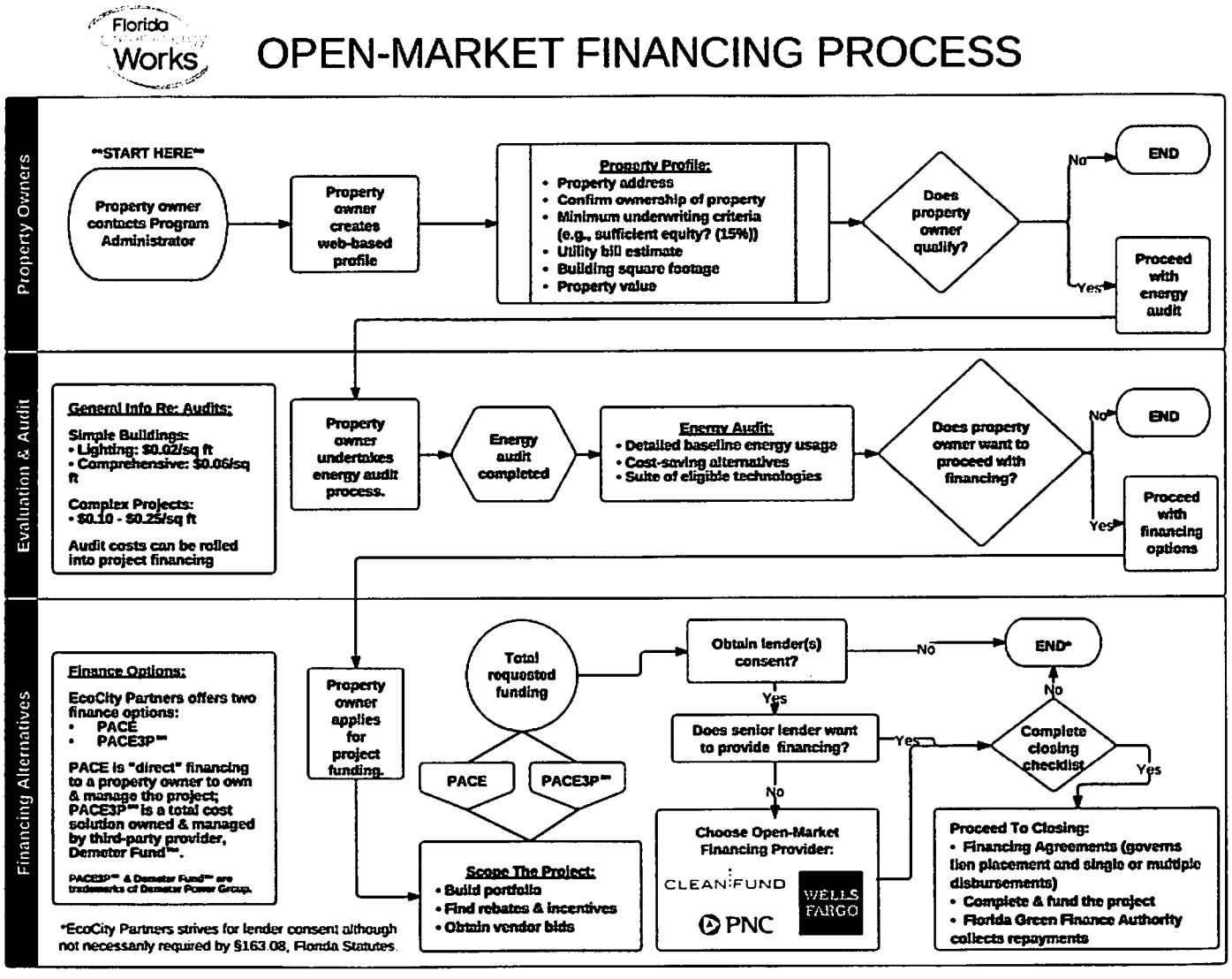
Fraud

Giving materially false, misleading or inaccurate information or statements to the Authority or its employees and agents (or failing to provide the Authority with material information) in connection with an application is punishable by law. Material representations include, but are not limited to, representations concerning the project costs, ownership structure and financial information relating to the property and the applicant.

Exceptions to these Terms and Provisions

The Program Administrator may make exceptions to the terms and provisions detailed in this handbook where there is a finding that such exception furthers the goals and objectives of the Florida Green Energy Works Program. Consideration of an exception request from a property owner may involve payment of an application fee or other fees.

Appendix A – Open Market Financing Process



Appendix B – Guidance for Selecting Evaluators

Overview

The commercial building energy, water and wind resistance evaluation and audit market is fragmented, with no universally accepted standards for auditors. Although the Program does not endorse specific contractors or accreditation programs, it has compiled this guidance to serve as suggested minimum requirements that property owners might look for in a reviewer in the commercial sector.[2] Reviews constitute an important first step in qualifying for financing through the Program. Property owners rely on the savings projections made in the energy, water and wind reviews when deciding which measures, if any, to implement at their properties. Capital providers will likewise rely on the reviews in determining whether to provide funding for proposed projects. The accuracy and reliability of the reviews is critical to the success of the Program, and the Program will only accept reviews from credible and qualified Evaluators.

Energy Evaluators

The market for energy reviews is varies with different levels of skills, background and expertise in specific systems. The qualifications of the reviewer should be commensurate with the scope and scale of the projects the property owner wishes to undertake. For a project that will include a single system, such as lighting, an energy reviewer with deep but narrow expertise in lighting may be appropriate. However, the same reviewer may not be qualified to perform a whole-building review that includes other systems.

Energy Evaluators - Credentials/Qualifications

Although the following credentials and qualifications are not required, the more of these that a service provider's staff has, the more confidence there is in their knowledge, experience and abilities:

- Florida Professional Engineering License (PE)
- ASHRAE Building Energy Assessment Professional (BEAP) Certification
- Certified Energy Manager (CEM) or Certified Energy Auditor (CEA) from the Association of Energy Engineers (AEE)
- State of Florida Certified Building Energy Rater
- Florida Green Building Coalition Green Commercial Building Standard
- Leadership in Energy and Environmental Design (LEED)
- Multi-disciplinary competence (lighting, HVAC, refrigeration, appliances)
- Building Performance Institute (BPI)
- Building Commissioning Association (BCA)
- American Institute of Architects (AIA)
- Years of directly relevant professional experience

[2] Please note that these standards are based in part on applicable federal and state laws and are therefore subject to change.

Water Efficiency Evaluators

Water efficiency evaluations may be performed as part of energy efficiency reviews, provided the energy reviewer's staff has sufficient expertise and training to adequately analyze water efficiency matters. Some professionals may also specialize in performing water efficiency evaluations and some specific agencies, such as the State's water management districts, may provide various water efficiency evaluation programs.

Water Efficiency Evaluators - Credentials/Qualifications

Although the following credentials and qualifications are not required, the more of these that a service provider's staff has, the more confidence there is in their knowledge, experience and abilities:

- Florida Professional Engineering License (PE)
- Florida Green Building Coalition Green Commercial Building Standard
- Florida Water Star Accredited Professional
- Multi-disciplinary competence (lighting, HVAC, refrigeration, appliances)
- Building Performance Institute (BPI)
- Leadership in Energy and Environmental Design (LEED)
- Building Commissioning Association (BCA)
- American Institute of Architects (AIA)
- Years of directly relevant professional experience

Wind Resistance Evaluators

Analyzing the wind-resistance of a building, or specific building elements, is a complex process that requires the knowledge and skills of a licensed professional engineer. In addition, Chapter 471 of the Florida Statutes provides that only a licensed professional engineer may engage in engineering tasks such as evaluating structures, buildings or equipment that are designed to safeguard life, health or property.

Wind Resistance Evaluators - Credentials/Qualifications

In order to perform wind resistance evaluations for the Program, the evaluator must hold a Florida professional engineering license (PE) if the scope of the improvements involves structural components. For instance if the wind resistance evaluation is limited to shutters as authorized by the program and state law, an appropriately certified contractor may be appropriate depending on the scope of the potential project. A PE's area of expertise must include structural engineering if the scope of the improvements involves structural aspects of the property.

Recommendations/Questions for Prospective Reviewers

1. If seeking a whole-building energy audit, request that the auditor follow the ASHRAE Level 1 and/or 2 audit guidelines. (This is a requirement of the Program for projects that include multiple improvements)
    a. Ask for a copy of previous ASHRAE Level 1 and 2 audits that they have completed.
    b. Request and check references for past building energy audit work.

2. Ask about training
    a. Are they a mechanical engineer?
    b. A licensed Professional Engineer (PE)?
    c. A Certified Energy Manager, Certified Energy Auditor, or Certified Lighting Efficiency Professional through the Association of Energy Engineers, or other accredited energy audit training program?
3. Ask about active involvement with relevant professional organizations such as (in alphabetical order):
    a. Association of Energy Engineers (AEE)
    b. American Society of Heating Refrigeration and Air-Conditioning Engineers (ASHRAE)
    c. ENERGY STAR (U.S. E.P.A.)
    d. Illuminating Engineering Society (IES)
    e. U.S. Green Building Council (USGBC)
    f. Florida Green Building Coalition
4. Be clear about what you expect as the outcome from the building evaluation report. You may want to specifically ask for some of the following products or services:
    a. Actionable recommendations
    b. Realistic treatment of utility rates and energy cost savings
    c. Transparent (not black box) analysis
    d. Guidance to more resources to assist with implementation
    e. Credible energy and cost savings estimates
    f. Reasonable cost estimates or vendor bids
    g. Interactive effects of multiple improvements
    h. Measurements of existing systems
    i. Logging of temperatures or base case energy consumption
    j. Hourly modeling
    k. Project design specifications
    l. Construction management services
    m. Utility incentive/rebate application assistance
5. Talk to your firm's CFO and discuss with the evaluator what type of financial/economic analysis would be most helpful to your decision-making process.

Other Tips for the Building Review Process

1. Collect all as-built mechanical, electrical and plumbing (for water audits) plans and specs that you have accessible, and make them available to the auditor.
2. Ask the property manager and building engineer to be present at the building audit.
3. Contact your utility account representative to coordinate incentives for your project.
4. You may want to involve vendors that you typically rely on, or have existing contracts with, such as controls companies, HVAC service companies, or lighting companies. They can provide cost estimates for proposed retrofits.

Appendix C – Energy Evaluation Types

Overview

This appendix contains a description of four levels of building energy evaluation that are commonly used in the energy efficiency industry. They are intended to help address questions that property owners may face when they decide to undertake an energy efficiency, renewable energy, or water efficiency project.

Industry Standard Audit Formats

While there is no single approach to conducting building evaluations, there are widely accepted industry standard audit formats. Depending on the size of the building, scope of the energy efficiency measure(s), and the complexity of systems, one can specify a Targeted Audit, or American Society of Heating Refrigeration and Air-Conditioning Engineers (ASHRAE) Level 1, 2, or 3 audit or their technical equivalents. Costs of audits are dependent on these variables as well.

Targeted Audit

In a Targeted Audit, the analysis need only account for the energy or water use of the system of concern, rather than the energy or water use of the whole building. This approach is generally used for larger, single-system projects. For example, this approach may be used for a project to replace only a cooling tower that is part of a building's chilled water system. In this example, only the chilled water system would be examined in the targeted audit.

In addition to reporting the same minimum building and energy conservation measure (ECM) information as above, this approach also includes an estimate of the base case energy use of the targeted system. In the example above, the Targeted Audit should include the base case energy use estimate of the combined cooling tower and chilled water plant.

ASHRAE Level 1, 2, and 3 Audits

The ASHRAE evaluation summary below lays out basic parameters for performing varying degrees of a whole building audit. For more precise guidelines see the ASHRAE Publication "Procedures for Commercial Building Energy Audits" (available from the ASHRAE online bookstore at http://www.ashrae.org). Please note that while ASHRAE is the leading industry standard, this type of evaluation is not mandatory if the evaluation is the technical equivalent to an ASHRAE evaluation.

Level I to III designations are based on increasing level of detail, depth, and cost. Each evaluation level includes an initial, preliminary analysis that compares the building energy use to similar building stock based on the energy use intensity (EUI in kWh/sq ft or kBTU/sq ft). Please see additional descriptions and components of these energy audit types in Table 5 and Table 6 below.

Table 2 - ASHRAE Energy Audit Level Descriptions

ASHRAE Audit Level	Audit Description
Level 1	**Walk-through analysis** Brief review of building systems with primarily qualitative results.
Level 2	**Energy Survey and Engineering Analysis** Includes identification of energy efficiency improvements with estimates of energy and cost savings for capital projects.
Level 3	**Detailed Analysis of Capital-Intensive Modifications** Includes more detailed calculations based on monitored end use data or hourly building simulations. Also includes more detailed project specifications for retrofits.

Table 3 - ASHRAE Energy Audit Activities

	Audit Level		
Audit Activity	**1**	**2**	**3**
Walk-through survey	●	●	●
Identify low-cost/no-cost recommendations	●	●	●
Identify capital improvements	●	●	●
Review mech. & elec. design, condition and O&M practices		●	●
Measure/Monitor key parameters		●	●
Analyze capital improvements (savings & costs inc. interaction)		●	●
Additional testing/monitoring			●
Detailed system modeling			●
Schematic layouts for recommendations			●
Meet with owner to review recommendations		●	●

Table 4 - ASHRAE Energy Audit Report Components

	Audit Level		
Audit Report Component	**1**	**2**	**3**
Estimate savings from utility rate change	●	●	●
Compare energy use intensity (EUI) to similar sites	●	●	●
Summarize utility data	●	●	●
Estimate savings if EUI met target	●	●	●
Preliminary end-use breakdown	●	●	●
Detailed end-use breakdown		●	●
Estimate low-cost / no-cost savings	●	●	●
Estimate capital project costs, savings		●	●
Complete bldg description & equipment inventory		●	●
Detailed description of recommendations		●	●
Recommended monitoring & verification (M&V) method		●	●
Specifications and schematics of all recommendations			●

Minimum Data Requirements

For all projects, regardless of size or audit type, the energy analysis or evaluation report should, at a minimum, provide the following key parameters in an easy-to-identify summary table. Note: Some of these requirements are included in a Level I Energy Evaluation while others augment the requirements in a Level 1 Evaluation.

For the building overall:

- Description of the Project and facilities affected by the Project
- The square footage for conditioned space by space type (e.g. office, retail, industrial, schools, hospital, high tech, etc)
- The historical annual energy consumption by fuel type (e.g. electricity kWh, natural gas therms) for at least one year
- The historical annual energy cost by fuel type
- The applicable utility rate schedule(s)

For each proposed Energy Conservation Measure (ECM):

- Measure description (including specifications, as appropriate)
- Estimated annual energy consumption savings (e.g. kWh, therms, kBTU) based on specific application (not manufacturer's generic, average estimate)
- Estimated peak demand savings (kW)
- Estimated operations and maintenance savings (if applicable)
- Estimated measure utility cost savings
- Estimated measure cost
- Calculated measure simple pay back
- Measure Equipment Useful Lifetime (from approved measure list if available)

The energy audit will list specific EEMs and ECMs and how cost effective each is. At a minimum, this audit will also include the following information:

1. Recommendations for energy savings measures;
2. Estimated energy savings and a priority ranking for each measure;
3. Estimated renewable energy to be produced;
4. Estimated greenhouse gas reductions;
5. Estimated cost savings resulting from the implementation of the recommendations and use of funds made available by the District; and
6. Post-project evaluation no more than 12 months after the initial evaluation to verify results of project.

Appendix D – Program Costs/Fees

This appendix contains a summary of the direct and indirect program costs and fees. Some of these are mandatory fees, whereas a few are conditional depending on what improvements are being undertaken, what rebate or incentive programs are being utilized, and what method of property valuation is chosen. Most of these can be included in the financing.

Community Opt-In Fee Schedule*

Tier 1 (0 - 19,999)	$12,500	$6,250	No charge	$10,000
Tier 2 (20,000- 74,999)	$15,000	$7,500	No charge	$12,500
Tier 3 (75,000- 199,999)	$17,500	$8,750	No charge	$15,000
Tier 4 (200,000- 499,999)	$20,000	$10,000	No charge	$17,500
Tier 5 (500,000+)	$22,500	$11,250	No charge	$20,000

* Opt-in fees cover the legal costs of establishing the district as well as the technology set-up costs of adding the community to the Program web platform.

Finance Program Fee Schedule

[illegible]	[illegible]	[illegible]	[illegible]
Application Processing Fee	TBD	$0 (Waived)	$0 (Waived)
Energy Audit (pass-through)	TBD	**Simple Buildings:** -$0.02/sq ft (lighting) -$0.06/sq ft (comprehensive) **Complex Buildings:** -$0.10 - $0.25/sq ft	**Simple Buildings:** -$0.02/sq ft (lighting) -$0.06/sq ft (comprehensive) **Complex Buildings:** -$0.10 - $0.25/sq ft
Technical Project Review (pass-through)	TBD	$195	$495
Appraisal Fee (optional) (pass-through)	TBD	Est. $2.5k - $5k	Est. $5k - $10k
Title Search (pass-through)	$150	$150	$425
Jurisdiction Set up Fee	$0	$0	$0
Recording Fee (Set by Florida statute) (pass-through)	$10 for 1st page; $8.50 each add'l page; $0.60 abstract fee plus doc. stamp tax of $0.35/$1,000.	$10 for 1st page; $8.50 each add'l page; $0.60 abstract fee plus doc. stamp tax of $0.35/$1,000.	$10 for 1st page; $8.50 each add'l page; $0.60 abstract fee plus doc. stamp tax of $0.35/$1,000.
Project Marketing Fee	2.5% of cost of the improvement	2.5% of cost of the improvement	2.5% of cost of the improvement
Bond Counsel Legal Fees	TBD	TBD	TBD
Progress Payment Request Processing (if applicable)	TBD	$200	$200

*Residential Program Fees only go into effect if the Residential Program is offered and becomes available pending resolution of legal uncertainty given FHFA, Fannie Mae and Freddie Mac litigation.

Pre-install Site Inspection (optional)	TBD	$525	$525
Post-install Site Inspection (optional)	TBD	$675	$675
Debt Service Reserve Fund (DSRF) (if required)	TBD	Est. 10% of financed amount (subject to lender approval)	Est. 10% of financed amount (subject to lender approval)

Ongoing Finance Program Fees

PACE DistrictAdmin. Fee[3]	0.5% of collected amount	0.5% of collected amount	0.5% of collected amount
Special District Legal Fees (Incurred by Authority)	0.5% of collected amount	0.5% of collected amount	0.5% of collected amount
Property Appraiser[4][5] (pass-through)	$150/year + $0.75/per parcel	$150/year + $0.75/per parcel	$150/year + $0.75/per parcel
Tax Collector[6] (pass-through)	1-2% of collections	1-2% of collections	1-2% of collections

*Residential Program Fees only go into effect if the Residential Program is offered and becomes available pending resolution of legal uncertainty given FHFA, Fannie Mae and Freddie Mac litigation.

[3] The PACE District Administration fees cover the cost of the annual audit for the PACE governmental authority along with district management fees and costs to manage the Authority, prepare the assessment role, and to legally advertise and hold four (4) quarterly hearings per year.

[4] Municipal "taxes" are considered levied by the County for purposes of determining commissions under Chapter 192, F.S. Payments must be paid quarterly.

[5] Chapter 197, F.S. requires reimbursement to the Property Appraiser for administrative costs, $150 per year plus an annual fee of $0.75 per parcel subject to the assessment.

[6] The amount of the fee is dependent on the actual assessments not to exceed 2%.

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, establishing the Florida Green Finance Authority as a means of implementing and financing a qualifying improvements program for energy conservation and efficiency improvements, and to provide additional services consistent with law; and

WHEREAS, the [INSERT CITY OR COUNTY NAME HERE] desires to become a member of the Florida Green Finance Authority in order to facilitating the financing of qualifying improvements for energy conservation for those located within the [CITY/COUNTY];

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 (the "Interlocal Agreement"), for the purpose of facilitating the financing of qualifying improvements for energy conservation and efficiency 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.

2. The Florida Green Finance Authority, together with its member Parties, and the [INSERT CITY OR COUNTY NAME HERE], with the intent to be bound thereto, hereby agree that the [INSERT CITY OR COUNTY NAME HERE] 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 [INSERT CITY OR COUNTY NAME HERE].

4. The [INSERT CITY OR COUNTY NAME HERE] hereby agrees to appoint a representative to serve as an Authority Board Director serving an initial term of three (3) years. All Parties acknowledge that the remaining Directors will each be appointed by the governing body of the first Party from each requisite water management district boundary area that joins the Authority through execution of this Agreement and that desires to serve as a Director.

5. The [INSERT CITY OR COUNTY NAME HERE] designates the following as the respective place for any notices to be given pursuant to the Interlocal Agreement Section 27:

[CITY OR COUNTY NAME HERE]:	Administrator [CITY OR COUNTY NAME HERE] Address Address Address
With a copy to:	City Attorney [CITY OR COUNTY NAME HERE] Address Address Address

6. This Party Membership Agreement shall be filed by the Authority with the Clerk of the Circuit Court in the Public Records of Palm Beach County as an amendment to the Interlocal Agreement, 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

[INSERT CITY OR COUNTY NAME HERE],
a municipal corporation of the State of Florida

By:_____
City Clerk

By: _____
_____, Mayor

(CitySeal)

City Attorney's Office
Approved as to form and legality
By: _____

RESOLUTION NO. -13

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, EXPRESSING THE CITY'S SUPPORT AND INTENTION TO CREATE WITHIN THE CITY, THE "FLORIDA GREEN ENERGY WORKS PROGRAM" A VOLUNTARY PROGRAM PROVIDING INTERESTED PROPERTY OWNERS WITH THE OPPORTUNITY TO FINANCE ENERGY EFFICIENCY IMPROVEMENTS ON THEIR PROPERTY BY REPAYMENT THROUGH NON-AD VALOREM ASSESSMENTS ON THEIR PROPERTY TAX BILL; AUTHORIZING THE MAYOR OF DELRAY BEACH TO EXECUTE AN INTERLOCAL AGREEMENT WITH THE FLORIDA GREEN FINANCE AUTHORITY FOR ADMINISTRATION OF THE FLORIDA GREEN ENERGY WORKS PROGRAM IN THE CITY OF DELRAY BEACH; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, home and business energy consumption accounts for a large portion of the overall usage of energy in a community; and

WHEREAS, there is a vast quantity of existing structures with many years of remaining life before replacement, and these structures are not as energy efficient as today's standards, nor do many existing buildings have renewable energy systems installed to provide some or all of their electric energy needs and many buildings are in need of improvements to protect them against damage from storm events; and

WHEREAS, installing energy efficiency, renewable energy and wind resistance improvements on existing structures can provide significant progress towards increased energy conservation and protection of properties in the City and statewide; and

WHEREAS, the upfront costs of these improvements are a hurdle to installing them and existing financing options may be insufficient for property owners to access cost-effective financing for energy-saving or wind-resistance property improvements due to requirements associated with traditional debt or equity financing options; and

WHEREAS, the expected life of energy efficiency, renewable energy or wind resistance projects may require a longer term payback period than offered by traditional financing, which may necessitate alternative options to fund installation of the improvements; and

WHEREAS, local governments within Florida and nationally have either formed, or are contemplating the formation of, programs to provide alternative financing options allowing a property owner to voluntarily finance energy efficiency and renewable energy improvements through non-ad valorem assessments repaid through their property taxes; and

WHEREAS, the State of Florida has declared it the public policy of the State to develop energy management programs aimed at promoting energy conservation and protecting properties from wind damage;

and

WHEREAS, the financing provided to these participating property owners will be repaid though non-ad valorem assessments levied on their property tax bills and only those property owners who want to participate will be levied the assessments; and

WHEREAS, the benefits of these energy financing programs include improved air quality, lowered fossil fuels use, creating energy independence and security, promoting the creation of jobs and economic development by stimulating "green industries" and saving citizens money by reducing energy consumption; and

WHEREAS, Section 163.08, F.S. authorizes local governments in Florida to either form individually, or in partnership with other local governments, programs to allow property owners to voluntarily finance energy efficiency, renewable energy or wind resistance improvements; and

WHEREAS, the Town of Lantana has formed the Florida Green Energy Works program which is an energy financing program created pursuant to Section 163.08, F.S.; and

WHEREAS, other local governments in the State are able to partner in the Florida Green Energy Works program by executing an Interlocal Agreement creating the Florida Green Finance Authority to administer the program, thus eliminating the costs and reducing the efforts to form an energy financing program by individual local governments; and

WHEREAS, the Florida Green Finance Authority is already creating the financing, levy and collection process to implement the Florida Green Energy Works program through the local government partners; and

WHEREAS, the Florida Green Energy Works program will provide significant benefits including property owner cost savings, enhancing property values, economic development and job opportunities and the City of Delray Beach believes that it is in the best interests of the health, safety and welfare of its citizens to participate in the program and authorize the City Manager and City Attorney to finalize the Interlocal Agreement creating the Florida Green Finance Authority and begin the steps to create the Florida Green Energy Works program in the City of Delray Beach.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, THAT:

Section 1. The above declarations are true and accurate, and are incorporated herein.

Section 2. The City Commission of Delray Beach, a municipal corporation, hereby authorizes participation in the Florida Green Finance Authority to implement the Florida Green Energy Works program.

Section 3. The City Commission hereby directs the City Manager and City Attorney to finalize the Interlocal Agreement with the Florida Green Finance Authority, and further authorizes the Mayor of Delray Beach to execute the Interlocal Agreement on behalf of the City.

Section 4. The City Commission hereby directs that the City Manager and City Attorney to begin creating the levy and collection process for the voluntary non-ad valorem assessments with the Florida Green Finance Authority and Palm Beach County Property Appraiser and Tax Collector.

Section 5. This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED in regular session on the ___ day of _____, 2012.

_____
MAYOR

ATTEST:

_____
City Clerk

INTERLOCAL AGREEMENT
BETWEEN
THE FLORIDA GREEN FINANCE AUTHORITY,
THE TOWN OF LANTANA,
AND THE TOWN OF MANGONIA PARK

This Interlocal Agreement (the "Agreement") is entered into between the Town of Lantana, Florida, a Florida municipal corporation ("Lantana") and the Town of Mangonia Park, Florida, a Florida municipal corporation, ("Mangonia Park") (together the "Originating Parties"); and the Florida Green Finance Authority (the "Authority").

RECITALS

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 Lantana and Mangonia Park desire to enter into this Interlocal Agreement in order to establish the Florida Green Finance Authority as a means of implementing and financing a qualifying improvements program for energy conservation and efficiency improvements, and to provide additional services consistent with law; and

WHEREAS, Section 163.08, F.S., provides that a local government may finance "qualifying improvements," including the type of improvements sought to be provided through this Agreement, via the levy and collection of voluntary non-ad valorem assessments on improved property; and

WHEREAS, Sections 170.01, and 170.201, F.S. provide for supplemental and alternative methods of making local municipal improvements, including the type of "qualifying improvements" sought to be provided by this Agreement; and

WHEREAS, pursuant to Sections 163.08, 170.01, and 170.201, F.S. and this Agreement, Lantana has created a "qualifying improvements" program entitled "Florida Green Energy Works"; and

WHEREAS, Section 163.01(7), F.S., allows for the creation of a "separate legal or administrative entity" to carry out the purposes of an interlocal agreement for the mutual benefit of the governmental units, and provide for parties to the agreement to administer the agreement; and

WHEREAS, pursuant to Section 163.01(4), F.S. a public agency of this state may exercise jointly with any other public agency of the state, any power, privilege or authority which such agencies share in common and which each might exercise separately, and the Parties to this Agreement have legislative authority over property within their jurisdictional boundaries; and

WHEREAS, Section 166.021, F.S., authorizes Lantana and any other municipalities to exercise any power for municipal purposes, except when expressly prohibited by law, and Section 125.01 F.S. grants counties the power to carry on county government to the extent not inconsistent with general or special law; and

WHEREAS, Section 163.08, F.S., provides that property retrofitted with energy-related "qualifying improvements" receives a special benefit from reduced energy consumption, benefits from the reduced potential for wind damage and assists in the fulfillment of the state's energy and hurricane mitigation policies; and

WHEREAS, the Lantana and Mangonia Park have determined that it is necessary and appropriate to establish various obligations for future cooperation between Lantana, Mangonia Park, the Authority and all other local governments that execute this Interlocal Agreement (each a "Party") thereby becoming members of the Authority related to the financing of qualifying improvements within the Authority; and

WHEREAS, Lantana shall administer this Interlocal Agreement; and

WHEREAS, Lantana and Mangonia Park have determined that it shall serve the public interest to enter into this 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 Authority.

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

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

Section 2. Purpose. The purpose of this Agreement is to provide the most economic and efficient means of implementing a financing program for qualifying improvements on property owners' lands within the Authority's Service Area and to provide additional services consistent with state law.

Section 3. Creation of the Authority. By execution of this Interlocal Agreement there is hereby created, pursuant to Section 163.01, F.S. and Section 163.08, F.S., the Florida Green Finance Authority ("the Authority"), a separate legal entity and public body with all of the powers and privileges as defined herein.

Section 4. Legal Authority Consent to Serve the Authority. The Authority shall have all the powers, privileges and authority as set forth below and as provided by Chapter 163, F.S., as necessary to accomplish the purposes set forth in this Agreement. By resolution of the governing bodies of the Originating Parties, all powers available to the Authority under this Agreement and general law, including but not limited to, Chapters 163, 170, 189 and 197, F.S. may be implemented by the Authority within the jurisdictional boundaries of the Originating Parties. The Originating Parties do hereby consent and agree to levy and collect voluntary non-

ad valorem assessments on properties, either individually or collectively as permitted by law, within their respective jurisdictions in accordance with the purposes of this Agreement and applicable law, to be repaid to the Authority. The Originating Parties also delegate the power to levy and collect voluntary non-ad valorem assessments on properties within their jurisdictions as may be permitted by law. The Authority shall not act, provide its services or conduct its activities within any Party's jurisdiction without the execution of this Agreement.

Section 5. Definitions.

a. "**Authority Board**" shall be the governing body of the Authority, comprised of representatives from all Parties as defined herein.

b. "**Florida Green Energy Works Program**" is the qualifying improvements program authorized by Section 163.08, F.S., developed by the third party administrator for Lantana and other Parties who elect to participate.

c. "**Interlocal Agreement**" or "**Agreement**" is defined as this Agreement including any amendments and supplements executed in accordance with the terms herein.

d. "**Originating Parties**" include the Florida local governments (as defined by Section 163.08, F.S.) that are the original signatories to this Agreement. These are the Towns of Lantana and Mangonia Park.

e. "**Participating Property Owner**" is defined as a property owner whose property is located within the Service Area of the Authority and has voluntarily acquired financing from the Authority.

f. "**Parties**" are any Florida local government (as defined by Section 163.08, F. S.) having the power to enter into interlocal agreements and which may, subject to the provisions of this Agreement, join in the efforts and activities provided for by this Agreement pursuant to Section 163.01, F.S. Any local government joining these efforts after the initial execution of this Agreement shall be known as a "Party". To be a Party, a local government shall execute the Signatory Page attached as Exhibit B to this Agreement, which Signatory Page shall supplement and amend this Agreement.

g. "**Qualifying Improvements**" are as defined in Section 163.08, F.S. in addition to any other improvements or services not inconsistent with state law.

h. "**Service Area**" shall mean the geographic area comprising all of the areas within the Florida Green Finance Authority as that area may be expanded or contracted in accordance with the provisions of this Agreement and the laws of the State of Florida.

Section 6. Representation on the Authority Board. The Originating Parties, and all subsequent Parties upon joining the Authority through execution of this Agreement, shall be represented by a member of the Authority Board as provided in Section 10 of this Agreement.

Section 7. Authority Boundaries and Service Area. The boundaries of the Authority shall be the legal boundaries of the local governments that are Parties to this Agreement. This is also the Authority's Service Area.

Section 8. Role of the Authority. As contemplated in this Agreement, the Authority will uniformly facilitate and assist the Originating Parties and all subsequent Parties with any

necessary actions to levy and collect voluntary non-ad valorem assessments, or other legally authorized form of collection, on the benefitted properties within the Authority's Service Area to secure the repayment of costs of qualifying improvements for those individual properties participating in the Florida Green Energy Works Program. Upon approval by the Authority of an application by a landowner desiring to benefit their property, those properties receiving financing for Qualifying Improvements shall be assessed from time to time, in accordance with the applicable law and/or financing documents. Notwithstanding a local government's termination of participation within this Agreement, those properties that have received financing for Qualifying Improvements shall continue to be a part of the Authority, until such time that all outstanding debt has been satisfied and the special assessments shall continue to be levied until paid in full for the applicable benefitted property.

Section 9. Powers of the Authority. The Authority shall exercise any or all of the powers granted under Sections 163.01, and 163.08, F.S., as well as powers, privileges or authorities which each local government might exercise separately, as may be amended from time to time, which include, without limitation, the following:

a. To finance qualifying improvements within the Authority Service Area and to facilitate additional improvements or services consistent with law; including, but not limited to, acquiring, constructing, managing, maintaining or operating buildings, works or improvements;
b. To make and enter into contracts in its own name;
c. To enter into any interlocal agreement as necessary to exercise powers conferred by law;
d. To appoint committees to assist with implementation of this Agreement;
e. To employ agencies, employees, or consultants;
f. To acquire, hold, lease or dispose of real or personal property;
g. To borrow money, incur debts, liabilities, or obligations which shall not constitute the debts, liabilities, or obligations of the Originating Parties or any of the Parties to this Agreement;
h. To levy and collect assessments, or assist in the levy and collection of assessments, either as the Authority or on behalf of an Originating Party or subsequent Party as permitted by law;
i. To adopt resolutions and policies prescribing the powers, duties, and functions of the officers of the Authority, the conduct of the business of the Authority, and the maintenance of records and documents of the Authority;
j. To maintain an office at such place or places as it may designate within the Service Area of the Authority or within the boundaries of an Originating Party or a subsequent Party;
k. 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, F.S., and to accept funding from local and state agencies;
l. To exercise all powers necessary, convenient, incidental, or proper in connection with any of the powers, duties, or purposes authorized in Section 163.08, F. S.;
m. To create and adopt any and all necessary operating procedures, policies, manuals or bylaws;

n. To maintain insurance as the Authority deems appropriate;

o. To apply for, request, receive and accept gifts, grants, or assistance funds from any lawful source to support any activity authorized under this Agreement; and

p. To exercise any powers or duties necessary to address carbon or renewable energy credits, or any other similar commodity that may come into existence, for the public benefits of the program.

Section 10. Authority Board. The Authority shall be governed by a seven (7) member Board of Directors which shall include one Director appointed by the governing body of each Originating Party plus five (5) additional Directors. To assure geographical representation across the State, the Authority seeks to appoint one (1) Director from the boundaries of each of the five (5) water management districts as defined in Chapter 373, F.S. Only Parties, through their governing bodies, may appoint representatives to serve as an Authority Board Director. Originating Party representatives serve an initial four (4) year term commencing upon execution of this Agreement, and subsequent terms as further set forth in subparagraphs a. and b. of this section. The remaining five (5) Directors will each be appointed by the governing body of the first Party from each requisite water management district boundary area that joins the Authority through execution of this Agreement and that desires to serve as a Director. Upon execution of this Agreement by such a Party, the term of its appointed Director shall commence for an initial term of three (3) years, and subsequent terms as further set forth in subparagraphs a. and b. of this section. Thereafter, any Party may submit one nominee to serve as an Authority Board Director for any given term.

a. Prior to the appointment of the full Authority Board as set forth above, and for purposes of the first organizational meeting(s), the Authority Board shall be comprised of representatives appointed by the governing bodies of the two (2) Originating Parties. Actions taken in this interim period shall be by unanimous consent and shall be binding on the Authority pursuant to the adoption of resolutions which do not require an in-person meeting, but which must be ratified by a majority vote of the Authority Board Directors in the next regularly scheduled meeting. All actions enumerated in paragraph c. of this section, as well as any other actions necessary to initiate the operation of the Authority may be taken during this interim period.

b. The Town Manager of Lantana, or designee, shall serve as the Chair of the Authority Board for the initial four (4) year term. The Mangonia Park representative shall serve as Vice Chair of the Authority Board for the initial four (4) year term. Upon the conclusion of the initial terms as set forth above, the Authority Board shall annually select directors and appoint its Chair, Vice Chair and Secretary, each of which shall then serve one (1) year terms. The appointment of Authority Board Directors and officers shall take place at the first regular Authority meeting of the year. The Chair shall preside at meetings of the Authority, and shall be recognized as head of the Authority for service of process, execution of contracts and other documents as approved by the Authority. The Vice Chair shall act as Chair during the absence or disability of the Chair. The Secretary shall keep all meeting minutes and a record of all proceedings and acts of the Board. Minutes shall be distributed to all Directors and Parties in a reasonable time period after the subject meeting.

c. The Authority Board shall act as the governing body of the Authority and shall have, in addition to all other powers and duties described herein, the following powers and duties:

1. To fix the time, and determine policies and orders of business for meetings, the place or places at which its meeting shall be held, and as set forth herein, to call and hold special meetings as may be necessary.
2. To make and pass policies, regulations, resolutions and orders not inconsistent with the Constitution of the United States or of the State of Florida, or the provisions of this Agreement, as may be necessary for the governance and management of the affairs of the Authority, for the execution of the powers, obligations and responsibilities vested in the Authority, and for carrying into effect the provisions of this Agreement.
3. To adopt bylaws and rules of procedure, or amend those that may be initially adopted by the Originating Parties.
4. To fix the location of the principal place of business of the Authority and the location of all offices maintained thereunder.
5. To create any and all necessary offices in addition to Chair, Vice-Chair and Secretary; to establish the powers, duties and compensation of all employees or contractors; and to require and fix the amount of all non-ad valorem assessments and/or fees necessary to operate the Florida Green Energy Works Program.
6. To select and employ such employees and executive officers as the Authority Board deems necessary or desirable, and to set their compensation and duties.
7. To employ or hire such attorneys as it deems appropriate to provide legal advice and/or legal services to the Authority, and to employ and hire such other consultants as it deems appropriate through any procedure not inconsistent with law.
8. As applicable and available, nothing herein shall limit the Authority's ability to pursue actions or remedies pursuant to Chapter 120, F.S.

d. Any Director may resign from service upon providing written notice pursuant to Section 27 of this Agreement, to the Authority Board Secretary. Such notice shall state the date said resignation shall take effect. Any Director who resigns shall be replaced in the same manner that the resigning Director was selected. Any resigning Director shall immediately turn over and deliver to the Authority Board Secretary all records, books, documents or other property in their possession or under their control which belongs to the Authority. Directors are encouraged to provide a minimum of 30 days notice so that a successor can be properly appointed; however, any Director who must resign immediately upon extenuating circumstances shall be succeeded by an interim Director by majority vote of the Authority Board until such time as a permanent successor can be seated.

e. Any Authority Board Director who is absent for three (3) consecutive Authority Board meetings, unless otherwise excused by the Chair, shall be deemed to have resigned from the Authority Board.

f. Authority Board Directors shall serve without compensation for the first year after the establishment of the Authority pursuant to this Agreement. Thereafter,

Authority Board Director compensation may be set by a unanimous vote of the Directors of the Authority Board in a manner and at such amounts as is consistent with applicable law. Travel expenses for Authority Board Directors shall be reimbursed as permitted by Florida law.

Section 11. Meetings of the Authority Board.

a. Within thirty (30) calendar days of the creation of the Authority, or sooner if feasible, the Originating Parties shall hold an organizational meeting to elect officers and perform other duties as required under this Agreement.

b. Prior to the beginning of each fiscal year (October 1), on a date, place and time as determined by the Authority Board, there shall be an Annual Meeting of the Authority. The annual statements shall be presented, and any other such matter as the Authority Board deems appropriate may be considered.

c. The Authority Board shall have regular, noticed, quarterly meetings at such times and places as the Authority Board may designate or prescribe. In addition, special meetings may be called, from time to time, by the Authority Board Chair, or by a majority vote of the Authority Board. A minimum of 24 hours notice to the public and all Authority Board Directors shall be given for any special meetings.

d. In the absence of specific rules of procedure adopted by the Authority Board for the conduct of its meetings, the fundamental principles of parliamentary procedure shall be relied upon for the orderly conduct of all Authority Board meetings.

Section 12. Decisions of the Authority Board. A quorum of the Authority Board shall be required to be present at any meeting in order for official action to be taken by the Board. A majority of all Authority Board Directors shall constitute a quorum. It is the desire and intent of this Agreement that decisions made by the Authority Board shall be by consensus of the Board. However, if a consensus is not achievable in any particular instance, then a majority vote of the quorum of the Authority Board shall be required to adopt any measure or approve any action, unless otherwise provided herein.

Section 13. Authority Staff and Attorney.

a. The Authority's administrative functions shall be carried out by Lantana and its consultants, and shall include all duties necessary for the conduct of the Authority's business and the exercise of the powers of the Authority as provided in Section 163.01 and Section 163.08, F.S.

b. The law firm that serves as the General Counsel for Lantana shall also serve as the General Counsel to the Authority. After the Authority has been operating for four (4) years, the Authority may opt to hire different Authority staff and or general counsel.

Section 14. Authorized Official. The Authority Board Chair shall serve as the local official or designee who is authorized to enter into a financing agreement, pursuant to Section 163.08(8), F.S., with property owner(s) who obtain financing through the Authority.

Section 15. Subsequent Parties. Recognizing the benefit that the formation of the Authority will provide to all Florida local governments, the Originating Parties to this Agreement support and encourage the participation of subsequent Parties as contemplated herein.

Section 16. Funding the Initial Program. Funding for the Authority shall initially be from grant funds or other funds acquired by the Originating Parties and/or subsequent Parties. For the initial establishment of the Authority, contributions can be made to the Authority as permitted by law.

Section 17. Debts of the Authority are Not Obligations of any Parties. Pursuant to Section 163.01(7), F.S. the Authority may exercise all powers in connection with the authorization, issuance, and sale of bonds or other legally authorized mechanisms of finance. However, any debts, liabilities, or obligations of the Authority do not constitute debts, liabilities or obligations of the Originating Parties or any subsequent Party to this Agreement.

Section 18. Annual Budget.

a. Prior to the beginning of the Authority's fiscal year, the Authority Board will adopt an annual budget. Such budget shall be prepared in the manner and within the time period required for the adoption of a tentative and final budget for state governmental agencies pursuant to general law. The Authority's annual budget shall contain an estimate of receipts by source and an itemized estimation of expenditures anticipated to be incurred to meet the financial needs and obligations of the Authority.

b. The adopted Budget shall be the operating and fiscal guide for the Authority for the ensuing Fiscal Year.

c. The Board may from time to time amend the Budget at any duly called regular or special meeting.

Section 19. Reports.

a. Financial reports: The Authority shall provide financial reports in such form and in such manner as prescribed pursuant to this Agreement and Chapter 218, F.S. Both quarterly and annual financial reports of the Authority shall be completed in accordance with generally accepted Government Auditing Standards by an independent certified public accountant. At a minimum, the quarterly and annual reports shall include a balance sheet, a statement of revenues, expenditures and changes in fund equity and combining statements prepared in accordance with generally accepted accounting principles.

b. Operational reports: The Authority Board shall cause to be made at least once every year a comprehensive report of its operations including all matters relating to fees, costs, projects financed and status of all funds and accounts.

c. Audits: The Authority shall be subject to, and shall cause to be conducted: (i) an independent budget audit and (ii) an independent financial and/or performance audit performed in accordance with generally accepted accounting practices and as applicable by state law.

d. Reports to be public records: All reports, as well as supporting documentation such as, but not limited to, construction, financial, correspondence, instructions, memoranda, bid estimate sheets, proposal documentation, back charge

documentation, canceled checks, and other related records produced and maintained by the Authority, its employees and consultants shall be deemed public records pursuant to Chapter 119, F.S., and shall be made available for audit, review or copying by any person upon reasonable notice.

Section 20. Bonds. The Authority Board is authorized to provide, from time to time, for the issuance of bonds, or other legally authorized form of finance, to pay all or part of the cost of qualifying improvements in accordance with law.

Section 21. Schedule of Rates and Fees.

a. Upon the creation of the Authority as set forth in this Agreement, the Authority Board shall establish a schedule of rates, fees or other charges for the purpose of making the Authority a self-sustaining district. There shall not be any obligation on the part of the Originating Parties or any subsequent Parties for financing contributions. The Authority shall not be authorized to create or distribute a profit. This shall not, however, prevent the Authority from establishing reserves for unanticipated expenses or for future projects in keeping with sound, prudent and reasonable operation of the Program within industry standards or from fulfilling any other requirements imposed by bond financings, other financial obligations or law. Nor shall this prevent the Authority from incurring costs such as professional fees and other costs necessary to accomplish its purpose. The Authority Board shall fix the initial schedule of rates, fees or other charges for the use of and the services to operate the Florida Green Energy Works Program to be paid by each participating property owner consistent with Section 163.08(4), F.S.

b. The Authority Board may revise the schedule of rates, fees or other charges from time to time; provided however, that such rates, fees or charges shall be so fixed and revised so as to provide sums, which with other funds available for such purposes, shall be sufficient at all times to pay the expenses of operating and maintaining the Florida Green Energy Works Program. This shall include any required reserves for such purposes, the principal of and interest on bonds, or other financing method, as the same shall become due, and to provide a margin of safety over and above the total amount of any such payments, and to comply fully with any covenants contained in the proceedings authorizing the issuance of any bonds or other obligations of the Authority.

c. The rates, fees or other charges set pursuant to this section shall be just and equitable and uniform for users and, where appropriate, may be based upon the size and scope of the financial obligation undertaken by a Participating Property Owner. All such rates, fees or charges shall be applied in a non-discretionary manner with respect to the Participating Property Owner's geographical location within the Authority's Service Area. No rates, fees or charges shall be fixed or subsequently amended under the foregoing provisions until after a public hearing at which all the potential participants in the Program, and other interested persons, shall have an opportunity to be heard concerning the proposed rates, fees or other charges. Notice of such public hearing setting forth the proposed schedule or schedules of rates, fees or other charges shall be provided in accordance with Chapter 163 and Chapter 197, F.S.

d. The Authority shall charge and collect such rates, fees or other charges so fixed or revised, and such rates, fees and other charges shall not be subject to the supervision or regulation by any other commission, board, bureau, agency or other political subdivision or agency of the county or state

e. In the event that any assessed fees, rates or other charges for the services and financing provided by the Authority to Participating Property Owners shall not be paid as and when due, any unpaid balance thereof, and all interest accruing thereon, shall be a lien on any parcel or property affected or improved thereby. Pursuant to Section 163.08(8), F.S., such lien shall constitute a lien of equal dignity to county taxes and assessments from the date of recordation. In the event that any such fee, rate or charge shall not be paid as and when due and shall be in default for thirty (30) days or more, the unpaid balance thereof, and all interest accrued thereon, together with attorney's fees and costs, may be recovered by the Authority in a civil action, and any such lien and accrued interest may be foreclosed and otherwise enforced by the Authority by action or suit in equity as for the foreclosure of a mortgage on real property.

Section 22. Disbursements. Disbursements made on behalf of the Authority shall be made by checks drawn on the accounts of the Authority.

Section 23. Procurement; Program Implementation and Administration. The Authority shall be administered and operated by a Third Party Administrator ("TPA") who shall be responsible for providing services to the Authority for the design, implementation and administration of the Florida Green Energy Works Program. The Originating Parties and all subsequent Parties understand and agree that the procurement for the initial TPA was performed by Lantana in accordance with its adopted procurement procedures. Pursuant to said procurement procedures, "EcoCity Partners, L3C" has been hired as the TPA. The "Florida Green Energy Works Program Administration Services Agreement" between Lantana and EcoCity Partners, L3C is attached hereto as Exhibit 1 and is hereby incorporated by reference. By execution of this Agreement, all parties hereto agree that the initial Florida Green Energy Works Program Administration Services Agreement, as amended, will be assigned by Lantana to the Authority and shall be executed and assumed by the Authority.

Section 24. Term. This Interlocal Agreement shall remain in full force and effect from the date of its execution by the Originating Parties until such time as there is unanimous agreement of the Authority Board to dissolve the Authority. Notwithstanding the foregoing, dissolution of the Authority cannot occur unless and until any and all outstanding obligations are repaid; provided, however, that any Party may terminate its involvement and its participation in this Interlocal Agreement upon thirty (30) 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, this Interlocal Agreement shall continue until such time as all remaining Parties agree to dissolve the Authority and all special assessments levied upon Participating Property Owners properties have been paid in full.

Section 25. Consent. The execution of this Interlocal Agreement, as authorized by the government body of the Originating Parties and any subsequent Party shall be considered the Parties' consent to the creation of the Authority as required by Sections 163.01 and 163.08, F.S.

Section 26. Limits of Liability.

a. All of the privileges and immunities from liability and exemptions from law, ordinances and rules which apply to municipalities and counties of this state pursuant to Florida law shall equally apply to the Authority. Likewise, all of the privileges and immunities from liability; exemptions from laws, ordinances and rules which apply to the activity of officers, agents, or employees of counties and municipalities of this state pursuant to Florida law shall equally apply to the officers, agents or employees of the Authority.

b. The Originating Parties and all subsequent Parties to this Agreement shall each be individually and separately liable and responsible for the actions of their own officers, agents and employees in the performance of their respective obligations under this Agreement pursuant to Chapters 768 and 163, F.S. and any other applicable law. The Parties may not be held jointly or severally liable for the actions of officer or employees of the Authority or by any other action by the Authority or another member of the Authority and the Authority shall be solely liable for the actions of its officers, employees or agents to the extent of the waiver of sovereign immunity or limitation on liability provided by Chapter 768, F.S. Except as may be otherwise specified herein, the Parties shall each individually defend any action or proceeding brought against their respective agency under this Agreement, and they 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 Agreement any and all applicable insurance coverage required by Florida law for governmental entities. Such liability is subject to the provisions of law, including the limits included in Section 768.28, F.S., which sets forth the partial waiver of sovereign immunity to which governmental entities are subject. It is expressly understood that this provision shall not be construed as a waiver of any right or defense that the parties have under Section 768.28, F.S. or any other statute.

Section 27. Notices. Any notices to be given pursuant to this Interlocal Agreement 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 certified U.S. mail, return receipt requested, addressed to the Party for whom it is intended, at the place specified. The Originating Parties designate the following as the respective places for notice purposes:

Lantana:

Town Manager
Town of Lantana
500 Greynolds Circle
Lantana, Florida 33462

With a Copy to:	Corbett and White, P.A. 1111 Hypoluxo Road, Suite 207 Lantana, FL 33462 Attn: Keith W. Davis, Esq.
Mangonia Park:	Town Manager Town of Mangonia Park 1755 East Tiffany Drive Mangonia Park, Florida 33407
With a Copy to:	Corbett and White, P.A. 1111 Hypoluxo Road, Suite 207 Lantana, FL 33462 Attn: Keith W. Davis, Esq.

Section 28. Filing. It is agreed that this Interlocal Agreement shall be filed with the Clerk of the Circuit Court of Palm Beach County, as required by Section 163.01(11), F.S.

Section 29. Joint Effort. The preparation of this Interlocal Agreement has been a joint effort of the Parties hereto and the resulting document shall not, as a matter of judicial construction, be construed more severely against any one party as compared to another.

Section 30. Execution in Counterparts. This Interlocal Agreement may be executed in counterparts which shall be in original form all of which, collectively, shall comprise the entire Interlocal Agreement.

Section 31. Merger, Amendment. This Agreement incorporates and includes all prior negotiations, correspondence, agreements or understandings applicable to the matters contained herein; and the Parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the Parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements whether oral or written. It is further agreed that no change, amendment, alteration or modification in the terms and conditions contained in this Interlocal Agreement 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 32. 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 33. 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 Florida law.

Section 34. Compliance with Laws. In the performance of this Agreement, the Parties hereto shall comply in all material respects with all applicable federal and state laws and regulations and all applicable county and municipal ordinances and regulations.

Section 35. 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 Palm Beach County, Florida.

Section 36. 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 to the extent possible.

Section 37. Effective Date and Joinder by Authority. This Interlocal Agreement shall become effective upon its execution by the Originating Parties. It is agreed that, upon the formation of the Authority, the Authority shall thereafter join this Interlocal Agreement and that the Authority shall thereafter be deemed a Party to this Interlocal Agreement.

Section 38. No Third Party Rights. No provision in this Agreement shall provide to any person that is not a party to this Agreement any remedy, claim, or cause of action, or create any third-party beneficiary rights against any Party to this Agreement.

Section 39. Access and Audits. Palm Beach County has established the Office of Inspector General in Article VIII of the Charter of Palm Beach County, as may be amended, which is authorized and empowered to review past, present and proposed county or municipal contracts, transactions, accounts and records. The Inspector General has the power to subpoena witnesses, administer oaths and require the production of records, and audit, investigate, monitor, and inspect the activities of Palm Beach County, its officers, agents, employees, and lobbyists, as well as the activities of all municipalities in the county, and their officers, agents, employees, and lobbyists, in order to ensure compliance with contract requirements and detect corruption and fraud. Failure to cooperate with the Inspector General or interference or impeding any investigation shall be in violation of Chapter 2, Article XIII of the Palm Beach County Code of Ordinances.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the Originating Parties hereto have made and executed this Interlocal Agreement on this 11th day of June, 2012.

ATTEST:

BY: _____
Town Clerk

(Affix Town Seal)

Town of Lantana, a municipal corporation of the State of Florida

BY: _____
Town Manager

Approved by Town Attorney
as to form and legal sufficiency

_____
Town Attorney

ATTEST:

BY: _____
Town Clerk

(~~Affix Town~~ Seal)

Approved by Town Attorney
as to form and legal sufficiency

Town of Mangonia Park, a municipal corporation of the State of Florida

BY: _____
Mayor

_____
Town Attorney

Exhibit A

[Third Party Administrator Agreement]

FLORIDA GREEN ENERGY WORKS PROGRAM

ADMINISTRATION SERVICES AGREEMENT

(Addendum to Agreement for Implementation of Grant #17477)

THIS FLORIDA GREEN ENERGY WORKS PROGRAM ADMINISTRATION SERVICES AGREEMENT ("Agreement"), dated as of April 2nd, 2012, is entered into by and between the Town of Lantana, Florida ("Town"), the Florida Green Finance Authority ("Authority") and EcoCity Partners, L3C, a Vermont low-profit limited liability company ("Administrator") (Town, Authority and Administrator are referred to herein collectively as the "Parties" and singly as a "Party").

Background

A. Section 163.08, Florida Statutes (Supplemental Authority for Improvements to Real Property) (together with any amendments thereto, the "PACE Act") provides authority to provide funding and financing for certain energy-efficiency, renewable energy and wind resistant qualifying improvements and associated programs by local governments ("PACE Program").

B. The Town received a grant to implement a PACE Program within the geographic boundaries of the Town, and also to implement a certification program for businesses located in the Town to identify and recognize businesses that adopt sustainable practices (collectively, the "Program").

C. Using funds provided through Grant Agreement #17477 (formerly known as Grant Agreement #ARS053) with the Florida Office of Energy (formerly the Florida Energy and Climate Commission), the Town entered into an Agreement with Administrator on July 26, 2011 which engaged Administrator to develop and implement an efficient, effective and voluntary Program (the "Existing Agreement").

D. As required by the Existing Agreement, the Town, together with other local governments, has formed the Florida Green Finance Authority, an administrative entity formed pursuant to an interlocal agreement as authorized by Chapter 163 of the Florida Statutes ("Authority"), to serve as the vehicle for the Program within the geographic boundaries of all units of local government that become parties to the Intergovernmental Agreement among the Town and additional local governments (the "Interlocal Agreement") (hereinafter the effective date of the Interlocal Agreement shall be referred to as the "Launch Date").

E. The Existing Agreement requires Administrator to design and implement a Program that would transition into a sustainable business model persisting after ARRA grant funds were expended and that will continue to incorporate other local governments who express an interest to "opt in" after the program is formed. The proposal laid out by Administrator in response to a Request for Qualifications issued by the Town requires completion of an initial series of tasks to design and implement the Program by April 30, 2012 or otherwise in support of fulfillment of the Grant Agreement. The Existing Agreement does not, however, specify the scope of the responsibilities to be undertaken by Administrator once the design phase is completed.

F. Now that the initial design phase of the Program is nearing completion and after working together to develop specific Program parameters and to take steps to establish the Authority, Town and Administrator wish to amend the Existing Agreement in order to facilitate the transition into a sustainable business model. This amendment is intended to identify the source of revenue for operating the Program after grant funds are expended and to more fully define the scope of the services to be provided by the Administrator to the Authority for implementation and ongoing administration of the Program. This Agreement shall be appended to the Existing Agreement as an addendum thereto, and in the event of any conflict between the terms hereof and the Existing Agreement, the terms of this Agreement shall prevail.

G. The Town of Lantana wishes to assign the Existing Agreement, as amended and restated herein, to the Authority and the Authority wishes to assume the Agreement for implementation of the Program.

Agreement

1. Restatement; Assignment. This Agreement shall become effective upon execution by the Town and the Administrator. It amends, restates and replaces the Existing Agreement in its entirety. The assignment of this Agreement by the Town to the Authority, and assumption of the Agreement by the Authority from the Town, shall become effective upon execution by the Authority.

2. Term; Renewal. The term of this Agreement (the "Initial Term") shall be a period of five (5) years from the Launch Date. At the expiration of the Initial Term and any Renewal Term, the Agreement shall automatically be renewed for an additional five (5) year period(s) (each, a "Renewal Term" and, together with the Initial Term, the "Term") unless terminated earlier as provided in Section 7.

3. Services.

(a) Scope of Services. Administrator has been engaged to design, implement and administer the Program, and Administrator shall perform the services described in Exhibit A attached hereto and made a part hereof (the "Services"). The Services shall be provided to the Authority for purposes of assisting the local governments that are parties to the Interlocal Agreement ("Members") with financing of qualifying improvements authorized by the PACE Act (hereinafter "Qualifying Improvements").

(b) Standards of Service. Work under this Agreement shall be performed only by competent personnel under the supervision of Administrator. Administrator shall commit adequate resources to develop and implement and the Program and perform the Services as required by this Agreement. The Administrator shall exercise the same degree of care, skill and diligence in the performance of the Services as that ordinarily provided by an administrator under similar circumstances. Work, equipment or materials that do not conform to the requirements of this Agreement, or to the requirements of law, may be rejected by the Authority by written notice to Administrator and in such case shall be replaced promptly by Administrator following notice and explanation of applicable requirements from the Authority, unless Administrator provides a bona fide objection to the rejection notice.

(c) Additional Service Providers. Administrator shall be permitted, in its sole discretion, to use and employ vendors, underwriters, providers, consultants, advisors or counsel in the development and administration of the Program or the provision of the Services. A current list of subcontractors is attached as Exhibit B. Administrator shall be responsible for all work performed by any other parties engaged by Administrator related to the Services.

(d) Compliance with Laws; Binding Agreement. The Administrator hereby warrants and represents that at all times during the term of this Agreement it shall maintain in good standing all required licenses, certifications and permits required under federal, state and local laws applicable to and necessary to perform the Services as an independent contractor. Administrator represents that it is authorized to do business in the State of Florida. The execution, delivery and performance of this Agreement by Administrator has been duly authorized, and this Agreement is binding on Administrator and enforceable against Administrator in accordance with its terms. No consent of any other person or entity to such execution, delivery and performance is required.

(e) No Exclusive Engagement; Conflicts of Interest. Nothing in this Agreement shall prevent Administrator from performing similar Services in other jurisdictions, either within or outside the State of Florida. So long as Administrator fulfills its obligations to provide the Services, Administrator, its sub consultants or any other provider, vendor, consultant, underwriter, or third party used or employed by Administrator, is permitted, individually or collectively, to advance without conflict any other PACE Program, or assist any other PACE Program sponsor, and that there is and shall be no objection by the Authority to such actions. The Administrator agrees that neither it nor its sub consultants shall represent any persons or entities in any action before the Authority, or before any Member of the Authority concerning implementation of the Program.

(f) Independent Administrator. Administrator and any agent or employee of Administrator shall be deemed at all times to be an independent contractor and not an employee, partner, agent, joint venture or principal of the Authority with respect to all of the acts and Services performed by and under the terms of this Agreement. Accordingly, neither Party shall have any authority to represent or bind the other. Administrator is wholly responsible for the manner in which it performs the Services and work required under this Agreement. Neither Administrator nor any agent or employee of Administrator shall be entitled to participate in any plans, arrangements or distributions by the Authority or any of its Members pertaining to or in connection with any retirement, health or other benefits the Authority or any of its Members may offer their employees. Administrator is liable for the acts and omissions of itself, its employees and agents. Any terms in this Agreement referring to instructions from the Authority shall be construed as providing for direction on policy and the results of Administrator's work, but not the means as to which such a result is obtained. The Authority does not retain the right to control the means or method by which Administrator performs the Services.

(g) Taxes. Administrator shall be responsible for all obligations and payments, whether imposed by federal, state or local law, including, but not limited to, FICA, income tax withholdings, unemployment compensation, insurance and other similar responsibilities arising from Administrator's business operations.

4. Responsibilities of Authority. The Authority acknowledges that the Florida law authorizing PACE programs reserves authority and responsibility for establishing the program and executing financing agreements with property owners to local government. Consequently, the Authority shall timely take the following actions:

(a) Authorize and adopt resolutions required to implement the Program;

(b) Approve documents authorizing the Administrator to commence legal proceedings on behalf of the Authority to validate Program related obligations and to engage counsel for the purpose;

(c) Within a reasonable time following submittal by Administrator, execute documents required to implement the Program including, but not limited to, financing or other agreements, obligations or instruments;

(d) Other actions reasonably required to be performed by the Authority to facilitate the development, implementation or activities of the PACE Program.

5. Compensation.

(a) Program Design. For Services relating to the design of the Program, the Administrator shall be paid in accordance with the Existing Agreement, except as follows. In addition to the compensation set forth in the Existing Agreement, Administrator shall be paid: (1) a separate payment of Thirty-Two Thousand and No/100 Dollars for Program workshops; and (2) a separate payment (or payments totaling) One Hundred Thousand and No/100 Dollars to be used for bond validation and program administrative costs and expenses. All funds described in this paragraph 5(a) are provided by the Grant Agreement. As a condition to the receipt of each separate payment, the Administrator shall deliver to the Town a proposed budget, including legal, administrative and workshop expenses, and shall submit invoices showing payment for work performed and expenses incurred, in such detail as the Town may require. Payments shall be made by check payable to "EcoCity Partners, L3C."

(b) Ongoing Program Administration. For Services relating to the ongoing operation of the Program, and for its performance hereunder, Administrator shall be entitled to impose and collect fees and charges in accordance with the schedule of fees described in Schedule 3 to Exhibit A ("Schedule of Fees"), which the Authority and Administrator may amend from time to time by mutual agreement to ensure the Program is priced to be competitive in the marketplace and all expenses are paid for through Program operation.

(c) Payment Does Not Imply Acceptance. The making of any payment by the Authority, or the receipt thereof by Administrator, shall not reduce the liability of Administrator to replace any work, equipment or materials which do not conform to the requirements of this Agreement, regardless of whether the unsatisfactory character of such work, equipment or materials was apparent or reasonably detectable at the time payment was made.

(d) Additional Service Providers. Administrator shall be solely responsible for all payments to any third party subcontractors, service providers or sub consultants that are engaged by Administrator to perform any of the Services contemplated by this Agreement.

6. Indemnification; Insurance.

(a) Indemnification. Administrator shall indemnify and hold harmless the Authority, its officers agents and employees, and shall upon request defend them, from and against any and all demands, claims, losses, suits, liabilities, causes of action, judgment or damages, arising out of, related to, or in any way connected with Administrator's performance of this Agreement, including, but not limited to, liabilities arising from contracts between the Administrator and third parties made pursuant to this Agreement. The indemnity obligations provided for in this paragraph shall include reasonable attorneys' fees, but shall exclude any liability resulting from acts of, or failure to take action by, the Authority, its officers, agents and employees.

The Authority shall promptly notify the Administrator of any claim giving rise to a right to indemnity and shall fully cooperate with the Administrator in defense of such claims. So long as the Administrator has agreed that the Authority is entitled to indemnification, the Administrator shall have the right to control the defense of the claim, including, without limitation, the right to designate counsel and to select a single counsel to jointly represent the interests of the Authority and the Administrator (unless an actual present conflict would preclude joint representation) and including the right to control all negotiations, litigation, arbitration, settlements, compromises, and appeals of the claim. The Authority shall cooperate in defense of any claims and may, but is not required to, retain at its cost additional separate counsel to participate in or monitor the defense of the claim by Administrator.

This Section 6(a) shall survive termination of this Agreement.

(b) Insurance. Without in any was limiting Administrator's liability pursuant to Section 7(a) above, Administrator shall maintain in force, throughout the Term, insurance with the following coverages:

i. Worker's Compensation insurance in the amount required by law;

ii. Commercial General Liability Insurance with limits of not less than $1 million per occurrence Combined Single Limit for Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Products and Completed Operations;

iii. Commercial Automobile Liability Insurance with limits of not less than $1 million per occurrence Combined Single Limit for Bodily Injury and Property Damage, including Owned, Non-Owned and Hired auto coverage, as applicable; and

iv. Professional liability insurance with limits of not less than $1 million per claim with respect to negligent acts, errors or omissions in connection with professional services to be provided under this Agreement.

(c) Required Provisions. All insurance required under this Agreement shall be maintained with reputable companies authorized to do business in the State of Florida. The

liability insurance required under this Section 6 shall (i) name the Authority as an additional insured, (ii) provide that such policy is primary insurance to any other insurance available to the additional insureds, with respect to any claims arising out of this Agreement, and (iii) apply separately to each insured against whom a claim is made or a suit is brought. Upon request, Administrator shall deliver a certificate of insurance to the Authority confirming the existence of the insurance required by this Agreement.

7. Default; Termination.

(a) Events of Default. Each of the following shall constitute an event of default ("Event of Default") under this Agreement:

i. Either Party fails or refuses to perform or observe any material term, covenant or condition contained in any section of this Agreement, and such failure continues for a period of thirty (30) days after receipt of written notice from the non-breaching Party, or such longer period as may be reasonably required for cure, provided the breaching Party commences the cure within thirty (30) days and diligently pursues the cure until completion.

ii. Administrator (A) is generally not paying its debts as they become due, (B) files, or consents by answer or otherwise to the filing against it of, a petition for relief or reorganization or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy, insolvency, or other debtors' relief law of any jurisdiction, (C) makes an assignment for the benefit of creditors, or (D) consents to the appointment of a custodian, receiver, trustee or other officer with similar powers over Administrator or any substantial part of Administrator's property.

iii. A court or governmental authority enters an order (A) appointing a custodian, receiver, trustee or other officer with similar powers with respect to Administrator or any substantial part of Administrator's property, (B) constituting an order for relief or approving a petition for relief or reorganization or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy, insolvency, or other debtors' relief law of any jurisdiction, or (C) ordering the dissolution, winding-up or liquidation of Administrator.

(b) Remedies for Default. Upon the occurrence of any Event of Default, each Party shall be entitled to proceed at law or in equity to enforce their rights under this Agreement, including, without limitation, to terminate this Agreement or to seek specific performance of all or any part of this Agreement. In addition, following the occurrence of any Event of Default, the Authority shall have the option, but no obligation, to cure or cause to be cured any Event of Default on behalf of Administrator, and in such event Administrator shall pay to the Authority upon written demand all costs and expenses incurred by the Authority in effecting such cure, with interest thereon from the date the expense is incurred by the Authority at the maximum rate

then permitted by law. The Authority shall have the right to offset from any amounts due Administrator under this Agreement or any other Agreement between the Authority and the Administrator all damages, losses, costs and expenses incurred by the Authority as a result of the occurrence of an Event of Default caused by Administrator.

(c) Exercise of Remedies. All remedies provided for in this Agreement may be exercised singly or in combination with any other remedy available hereunder or under applicable law. The exercise of any remedy shall not be deemed a waiver of any other remedy.

(d) Termination for Convenience.

i. Effective Date. Following the Initial Term, either party may notify the other of its intent to terminate the Agreement for any reason by delivering written notice of termination no later than May 15 of any year during the Term. In such event, the Agreement will terminate on August 15 of the year in which the termination notice is delivered, at which date Administrator shall cease providing the Services. In the event the Authority terminates the Agreement under the provisions of this paragraph 6(b), Administrator shall be entitled to continue to offer the Services during the transition period so long as (i) Administrator does not approve any projects, completion of which will extend beyond the termination date; (ii) Administrator provides for ongoing management of assessments related to any projects completed under Administrator's auspices; (iii) Administrator continues to provide all of the Services in a professional manner in accordance with the Agreement; (iv) Administrator continues to work in good faith with the Authority to provide a smooth transition for either the termination of the program or transfer to another administrator.

ii. Termination Fee. In the event of termination for convenience by the Authority, Administrator shall be entitled to a termination fee equal to thirty percent (30%) of the origination fee which would have been received by Administrator pursuant to Schedule 3 to Exhibit A, had the Agreement not been terminated, for all PACE projects funded through the Authority which (i) had completed applications submitted to the Program prior to the termination date, (ii) are closed within one (1) year after the termination date, and (iii) are identified by Administrator in writing no later than five (5) days after the termination date..

(e) Termination for Impossibility. In the event that (i) conditions in U.S. financial markets, (ii) changes in PACE law, or (iii) changes in the Authority's authority to provide assessment lien priority render the PACE Program infeasible, Administrator may suspend the PACE Program for a period of up to twelve (12) months. Should the Administrator determine at the conclusion of the suspension period that conditions do not warrant resumption of the program Administrator may request from the Authority an extension of the PACE Program suspension for an additional six (6) months. The Authority may, at its option, grant the extension or cancel the Agreement.

(f) Rights and Duties Upon Termination. Upon the expiration or earlier termination of this Agreement pursuant to this Section, this Agreement shall terminate and be of no further force and effect, except for those provisions which expressly survive termination. Upon expiration or termination, Administrator shall transfer to the Authority any records, data, supplies and inventory produced or acquired in connection with this Agreement. This subsection shall survive the termination of the Agreement.

8. Confidential Information; Ownership and Access to Records.

(a) Proprietary or Confidential Information. Administrator acknowledges that, in the performance of the Services or in contemplation thereof, Administrator may have access to private or confidential information which may be owned or controlled by the Authority, and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to the Authority. Administrator agrees that all information disclosed by Authority to Administrator shall be held in confidence and used only in performance of this Agreement. Administrator shall exercise the same standard of care to protect such information as a reasonably pruden: Administrator would use to protect its own proprietary data.

(b) Ownership of Information. The parties acknowledge that all inventions, innovations, improvements, developments, methods, designs, analyses, drawings, reports and all similar or related information (whether patentable or not) which are conceived, developed or made by Administrator or Authority exclusively for the Program during the term of this Agreement are deemed to be within the public domain, and subsequently may be used by each party without warranty of any kind. Any artworks, copy, posters, billboards, photographs, videotapes, audiotapes, systems designs, software, reports, diagrams, surveys, blueprints, source codes or any other original works created by Administrator in connection with the Program shall not be deemed to be works for hire. Notwithstanding the foregoing, to the extent that any components used in the Program are developed independently and licensed from third parties, including, without limitation, any software, methods, inventions, processes, logos, brands or data, such components shall not become part of the public domain and the terms of the applicable license shall prevail. Among other things, the online sustainability tool for green business certification has been licensed from Green Bureau, LLC and use of the service-mark PACE3P™ and any related trademarks or service marks have been licensed from Demeter Power Group, Inc.

(c) Public Records. All records, books, documents, maps, data, deliverables, papers and financial information associated with the Program to be administered by Administrator (the "Records") are public records and shall be available to be inspected and copied by the Authority. In the event of public record requests, all such requests shall be administered and handled by the Authority as the custodian. The Authority, or its designee, shall, during the term of this Agreement and for a period of three (3) years from the date of termination of this Agreement, have access to and the right to examine and audit any of the Records. After notice and reasonable opportunity to cure, the Authority may cancel and terminate this Agreement for refusal by the Administrator to comply with the requirements of Chapter 119, Florida Statutes (Public Records).

9. Miscellaneous.

(a) Nondiscrimination. During the term of this Agreement, Administrator shall not discriminate against any of its employees or applicants for employment, if any, because of their race, age, color, religion, sex, sexual orientation, national origin, marital status, physical or mental disability, or political affiliation and Administrator shall abide by all Federal and State laws regarding nondiscrimination.

(b) Disabilities. Administrator acknowledges that, pursuant to the Americans with Disabilities Act ("ADA"), programs, services and other activities provided by a public entity to the public, whether directly or through an Administrator, must be accessible to the disabled public. Administrator shall provide the Services in a manner that complies with the ADA and any and all other applicable federal, state and local disability rights laws. Administrator agrees not to discriminate against disabled persons in the provision of services, benefits or activities provided under the Agreement and further agrees that any violation of this prohibition on the part of the Administrator, its employees, agents or assigns will constitute a material breach of this Agreement.

(c) Entire Agreement; Amendment. This Agreement, including the Exhibits hereto, contains the entire agreement of the Parties with respect to its subject matter and supersedes any prior oral or written representations. No representations were made or relied upon by either Party, other than those that are expressly set forth herein. No agent, employee, or other representative of either Party is empowered to amend, change, modify, supplement, rescind, terminate or discharge the terms of this Agreement, except by a written agreement executed by the Parties.

(d) Binding Effect; No Third Party Beneficiaries. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, successors and permitted assigns. This Agreement shall not confer any rights or remedies upon any person other than the Parties and their respective successors and permitted assigns.

(e) Non-waiver. The omission by either Party at any time to enforce any default or right reserved to it, or to require performance of any of the terms, covenants or provisions hereof by the other Party at the time designated, shall not be a waiver of such default or right to which the Party is entitled, nor shall it in any way affect the right of the Party to enforce such provisions thereafter.

(f) Severability. If the application of any provision of this Agreement to any particular facts or circumstances is found by a court of competent jurisdiction to be invalid or unenforceable, then the validity of other provisions of this Agreement shall not be affected or impaired thereby, and such provision shall be enforced to the maximum extent possible so as to effect the intent of the Parties.

(g) Assignment. The Services to be performed by Administrator are personal in character and neither this Agreement nor any of the duties or obligations hereunder may be assigned by the Administrator; provided, however, that this Section shall not prohibit the engagement of subcontractors or other third parties to perform any part of the Services. The

performance of the Services requires the cooperation and legal authority of the Authority and accordingly the Agreement may not be assigned by the Authority without the prior written consent of Administrator.

(h) Governing Law; Venue; Jurisdiction. This Agreement shall be construed in accordance with and governed by the laws of the State of Florida without regard to conflicts of law principles. Each Party agrees to personal jurisdiction in any action brought in any court, Federal or State, within the County of Palm Beach, State of Florida having subject matter jurisdiction over the matters arising under this Agreement. Any suit, action or proceeding arising out of or relating to this Agreement shall only be instituted in the County of Palm Beach, State of Florida. Each Party waives any objection which it may have now or hereafter to the laying of the venue of such action or proceeding and irrevocably submits to the jurisdiction of any such court in any such suit, action or proceeding.

(i) Attorney's Fees. In the event of any proceedings arising out of this Agreement, the prevailing Party shall be entitled to recover its reasonable attorney's fees and costs, including the fees and expenses of any paralegals, law clerks and legal assistants, and including fees and expenses charged for representation at both the trial and appellate levels.

(j) Jury Trial. **In the event of any litigation arising out of this Agreement, each party hereby knowingly, irrevocably, voluntarily and intentionally waives its right to trial by jury.**

(k) Limitation of Liability. The obligations of the Authority shall be limited to the payment of the compensation provided in this Agreement, and cooperation required to facilitate the implementation of the Program. In no event shall any Party to this Agreement shall have any liability for special, consequential, incidental or indirect damages, including lost profits, arising out of or in connection with this Agreement or the Services.

(l) Days. All references to days in this Agreement shall refer to calendar days unless other expressly provided. In the event any period specified in this Agreement expires on a Saturday, Sunday or another day on which banks are permitted or required to be closed in the State of Florida, then the period shall be extended until the next business day.

(m) Exhibits. The Exhibits attached hereto are hereby incorporated in and made a part of this Agreement as if set forth in full herein and are an integral part of this Agreement.

(n) Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

(o) Construction; Interpretation. The Parties have participated equally in the drafting and negotiation of this Agreement and accordingly any rule of construction which would construe the terms agreement against the draft are inapplicable.

(p) Notices. All notices permitted or required under this Agreement shall be in writing and shall be delivered in person or mailed by first class, registered or certified mail,

postage prepaid, to the address of the party specified below or such other address as either party may specify in writing. Such notice shall be deemed to have been given upon receipt.

If to Town: Town of Lantana
500 Greynolds Circle
Lantana, Florida 33462
Attn: Michael Bornstein, Town Manager

If to Authority: Florida Green Finance Authority
Attention: Board Chair
500 Greynolds Circle
Lantana, Florida 33462

If to Administrator: EcoCity Partners, L3C
224 Datura Street, Suite 211
West Palm Beach, Florida 33401
Attn: Michael Wallander, Manager

[Remainder of page intentionally blank.]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

THE TOWN OF LANTANA, FLORIDA

By: _____

Name: MICHAEL BORNSTEIN

Title: TOWN MANAGER (Seal)

Attest: _____
Crystal Gibson, Town Clerk

THE FLORIDA GREEN FINANCE AUTHORITY

By: _____

Name: David Thatcher

Title: Chair, Florida Green Finance Authority

ECOCITY PARTNERS, L3C, a Vermont low-profit limited liability company

By: _____

Name: Michael Wallander

Title: Principal

EXHIBIT A

SCOPE OF THIRD PARTY ADMINISTRATION SERVICES AND PROGRAM FEE SCHEDULE

SCOPE OF SERVICES & FEES:

I. **Program Design Services**
II. **Program Implementation Services**
III. **Ongoing Program Administration Services**
IV. **District Management Services**
V. **Ancillary Services**
VI. **Fee Schedule**

I. Program Design Services (Grant Funded)

Design services for the Florida Green Energy Works Program (the "Program") offered to the Florida Green Finance Authority (the "Authority") by EcoCity Partners, L3C as the Third Party Administrator of the Program, ("TPA" or "Administrator"), include, at a minimum, fulfilling the terms of the Agreement executed between the Town of Lantana and EcoCity Partners, L3C dated July 26, 2011 for the development and operation of a green business certification and finance program (the "Existing Agreement").

The Existing Agreement requires Administrator to design and implement a Program that would transition into a sustainable business model that will continue to operate after the grant-funded portion of the work is completed. The Program is intended to fulfill the Existing Agreement requirement that enables other local governments to "opt in" after the Program is formed.

Program Design Services includes a series of tasks to design the Program, which tasks must be completed by April 30, 2012 or as otherwise may be required for the Town to fulfill the Grant Agreement, as appropriate. Program Design Services shall be paid for solely through grant funds.

Program Design Services tasks, which must be completed by April 30 2012 in accordance with the Grant Agreement, include:

Deliverables: PACE District & Finance Program Enabling Documentation (*status as of date of addendum execution*)

Consistent with Florida law and Section 163.08, Florida Statutes (the "PACE Act"), Administrator will provide a comprehensive set of documents for the purpose of establishing, authorizing and implementing the Program. By way of example, such documents may include the following components:

1) An enabling ordinance or resolution that includes a determination that the establishment of the program would be in the public interest as required by the law (*completed*).
2) A statement indicating that the jurisdiction proposes to make voluntary contractual non-ad valorem assessment ("PACE Assessment") financing available to property owners (*completed*).
3) An identification of the types of renewable energy sources, wind resistance, energy efficiency and other improvements ("Qualifying Improvements") (*completed*).

4) A description of the boundaries of the area within which contractual assessments may be offered (*completed*).

5) Designation of a date, time and place for the public hearing on the matter, if required (*completed*).

6) A statement of assessment underwriting standards that is consistent with the PACE Act and other relevant law, and that reflects the legitimate concerns and interests of mortgage lenders, cognizance of the secondary mortgage market, and that is designed to ensure appropriate capital markets participation and form the basis for a Florida statewide PACE financing program (*completed*).

7) Consultation with the appropriate local government officials to ensure arrangements for placing the assessments on the tax roll (*completed*).

8) Development of protocols to create and maintain non-ad valorem assessment rolls, and transfer proceeds to cover debt service and associated program costs (*partially completed*).

9) A draft form of Financing Agreement and supporting documentation consistent with the PACE Act and/or other relevant law and anticipated market acceptance specifying the terms and conditions for a property owner to fund and finance Qualifying Improvements (*partially completed*).

10) A Finance Program Handbook that describes the funding process and source(s) to be offered through the Program. The Finance Program may employ funds available to the Authority from any source, and may include the issuance or sale of bonds, obligations, or other financing arrangements. The Finance Program may provide for the establishment of any necessary reserve fund or funds, and will provide for the apportionment of all or any portion of the costs incidental to financing, administration, and collection of the assessments among the consenting property owners and other matters necessary to attract funding and financing (*pending approval*).

11) Underwriting Criteria: Applicant eligibility and qualification requirements based upon State, federal and local law and prudent underwriting guidelines (*partially completed*).

12) District Management Policies: Administrator will provide the Authority and participating Districts with draft policies for use by the Authority, the Districts and participating property owners for financing of Qualifying Improvements. These policies will be for adoption by the Districts. The policy statement may include, but is not limited to, identifying designated signatories for each District, a governing Board for each District, a method of prioritizing property owner applications, and proposed Program timelines for application processing, assessment processing, and other customer-service related guidelines (*partially completed*).

Program Implementation Services (Continue After Grant Funds Expended)

Program implementation services include finalizing and integrating the tasks outlined in the Program Design Services to create and launch a program that is ready to process applications and fund projects. Program Implementation Services are intended to facilitate the transition to a sustainable business model. These services include the following key deliverables:

Deliverables:

1) **Web Portal.**

   a) Administrator will implement and operate a website (www.floridaareenenergyworks.com) that serves as the primary interface between applicant and Administrator. Administrator will "brand" the dedicated website for the Authority.

b) The secure website will manage distribution of program application, application filing, the tracking of the application process, and notice of project funding. Data collected may include:

i) The number and locations of property owners enrolling in the Program;

ii) The type, size and dollar value of install projects;

iii) The time between enrollment and installation; and

iv) The level of participation of each qualified contractor.

c) Through the website, Administrator may develop, implement and administer software and models that:

i) Processes applications and funding requests;

ii) Provides assessment repayment projections and debt service schedules;

iii) Provides real-time reports on Program progress.

2) **Contractor Qualification Criteria.**

a) Administrator will establish threshold eligibility criteria for contractors as a prerequisite to their participation in the Program, which may include, but not necessarily be limited to, having in place appropriate State and local licenses and insurance policies.

b) Contractor qualification criteria is intended to emphasize excellence in customer service, market outreach, technical expertise and professionalism without placing an unnecessary or undue burden on contractors for accessing and participating in the Program.

3) **Marketing & Communications Program.**

a) Administrator will develop a marketing and education campaign to inform the local community(ies) and stakeholders about the Program.

b) Administrator will develop content for a dedicated website, print materials and workshops.

c) Administrator will establish a branding and marketing plan and the coordination of Authority and local government resources to maximize marketing impacts.

d) Administrator will facilitate or assist in the facilitation of workshops with contractors, prospective participants and/or other interested parties in order to educate them about the Program terms and application process.

e) Administrator may provide a recorded webinar or similar on-line tutorial for property owners and contractors, which will review program policies and requirements.

f) Administrator will arrange and prepare presentation materials for the public, legislative and policy-making bodies, credit rating agencies, and credit enhancement and liquidity providers, as required.

II. Ongoing Program Administration Services

Program administration services include all tasks necessary to administer the Program on an ongoing and sustainable basis, including processing applications, providing customer service and administration, contractor certification, project quality assurance and control, management of assessments and payments.

Deliverables:

1) **Application Processing**

   a) Administrator will conduct the property and project screen to ensure both meet the terms and conditions of the Program. Administrator will complete property/project screen within a reasonable period of time from receipt of the application. Administrator will regularly report on applications approved, denied or pending.

      i) Administrator will install protocols for evaluating applicant properties pre- and post-installation for purposes of establishing a Savings to Investment Ratio (SIR) greater than one.

      ii) Administrator will utilize eligibility and underwriting criteria that complies with State, federal and local law and prudent underwriting standards and that makes financing available to large and small property owners in traditional as well as underserved markets.

   b) When funding is requested, Administrator will verify the project installation through review of appropriate documents. Administrator will conduct this review within a reasonable period of time from the date that all required documentation is received.

   c) Once projects are verified, Administrator will notify the Authority and provide the property owner with legal documents.

   d) Administrator will verify completion of the legal documents after receipt from property owners and will review such documentation within a reasonable period of time.

   e) Upon receipt of complete documents, Administrator will notify the Authority of an approved funding request and provide the documents necessary to record the lien. Administrator will record the lien on behalf of the Authority.

   f) Once a bond is issued and purchased or some other funding mechanism has been completed, Administrator will disburse funds to the property owner within a reasonable period of time.

   g) Administrator will seek to establish and implement appropriate procedures and timelines for applications filed in paper copy as well as via the web portal.

   h) The reasonableness of the timelines listed above are subject to revision and specificity by mutual agreement of the Authority and Administrator in conjunction with the establishment and maintenance of program terms and conditions.

2) **Program Reporting**

   a) Administrator will provide reports on program application statistics to the Authority on a regular basis.

b) Administrator will prepare reports, schedules and documents to support the issuance and underwriting of bond or other financing documents, such as disclosure documents for the IRS, SEC and/or any other regulatory body purposes; cash flows analysis; debt service and repayment projections; substantiation of revenue and expenditure estimates and project costs; verification of cash flows; and project or market feasibility, as needed.

3) Program Documentation

a) Administrator will develop and maintain the documents for Program administration, which may include, but not necessarily be limited to, the following:

i) Program Terms and Policies

ii) Assessment Underwriting Criteria

iii) List of Qualifying Improvements

iv) Program Application & Funding Request Forms

(1) Application Form

(2) Financing Agreement

(3) Truth-In-Lending Form (if applicable)

(4) Lender Notification & Authorization Form

(5) FHFA/FNMA/FMAC PACE Status Disclosure Form (if necessary)

(6) Information Verification Form(s)

4) Customer Service: Administrator will provide direct customer service to the community via the web, email, phone and walk-in, as appropriate.

III. District Management Services

District Management Services involve those tasks necessary to help facilitate the relationship between the Authority and local governments and dependent special districts that participate in the Program. These services may include the following:

Deliverables:

Administrative and Management Services

1) Attend and conduct all regularly scheduled and special Board meetings, hearings and workshops. Arrange for time and location and all other necessary logistics for such meetings, hearings, etc.

2) Prepare agenda packages for transmittal to Board members and staff prior to Board meeting. Prepare meeting materials for other meetings, hearings, etc. as needed.

3) Provide accurate minutes for all meetings and hearings.

4) Other responsibilities include such items as:

   a. Custody of the District's Seal

   b. Records custodian and records management liaison with State of Florida and other applicable government agencies overseeing the storage of inactive files and destruction of obsolete files.

   c. Maintaining and safeguarding the minutes of public meetings, Resolutions, contracts and agreements.

5) Ensure compliance with Federal and/or State law affecting the District which include but are not limited to the following:

   a. Property notice all public meetings, in accordance with the appropriate Florida Statutes, including but not limited to, public hearings on assessments, the budget, all other required notices of meetings, hearings and workshops.

   b. Provide required information to the Department of Community Affairs, the County, the Auditor General, and all other state or local agencies with reporting requirements for the district.

6) Maintain "Record of Proceedings" for the District which includes meeting minutes, agreements, resolutions and other records required by law.

   a. Implement and maintain a document management system to create and save documents, and provide for the archiving of district documents.

   b. Protect integrity of all public records in accordance with the requirements of applicable law. Respond to public record requests as required by law.

7) Ensure District is in compliance with administrative and financial reporting for Special Districts.

8) Assist in negotiations of contracts, as directed by the Board.

9) Provide contract administration and supervision of all contracts, as directed by the Board.

10) Serve as liaison with County and State agencies, including the Supervisor of Elections, Taxing officials and the Property Appraisers.

11) Implement the policies established by the District.

Financial Services

1) Establish Fund Accounting System in accordance with federal and state law as well as Government Accounting Standard Board and the Rules of the Auditor General.

2) Prepare regular balance sheet, income statement(s) with budget to actual variances. Prepare Public Depositor's Report and distribute to State.

3) Prepare all other financial reports as required by applicable law and accounting standards.

Budgeting

1) Prepare budget, budget resolutions, and backup material for and present the budget at all budget meetings, hearings and workshops. The budget is to be done in accordance with state law standards, and consistent with applicable Government Finance Officers Association and Government Accounting Standard Board standards. Budget preparation shall include calculation of operation and maintenance assessments, which may include development of benefit methodology for those assessments.

2) Administer Adopted Budget of the District.

3) Transmit proposed budget to local governing authorities in the required timeframe prior to adoption.

4) File all required documentation with the Department of Revenue, Auditor General, the County, and other governmental agencies with jurisdiction.

5) Prepare and cause to be published notices of all budget hearings and workshops.

6) Prepare year-end adjusting journal entries in preparation for annual audit by Independent Certified Public Accounting Firm.

7) Prepare all budget amendments on an outgoing basis.

8) Assist in process to retain an auditor and cooperate and assist in the performance of the audit by the Independent auditor.

Revenue Collection

1) Administer collection and disbursement of assessments, fees, and charges and all revenues of the District in accordance with Florida law governing the uniform method of assessing, levying and collecting special assessment.

2) Recommend enforcement actions to ensure payment as needed.

3) Prepare monthly financial reports showing revenues and expenses for the month in comparison to annual budget, noting variances.

4) Prepare and refine a property database.

5) Prepare annual assessment roll. Certify roll either to the County Tax Collector, or direct bill and collect (or both), as appropriate.

6) Issue estoppels letters as needed.

Accounts Payable/Receivables

1) Administer the processing, review and payment of all invoices and purchase orders. Ensure timely payment of district bills is made.

2) Report cash balances by fund.

3) Maintain checking accounts with qualified public depository.

Capital Program Administration

1) Maintain proper capital fund and project funding accounting procedures and records.

2) Oversee and implement bond issue related compliance, i.e., coordination of annual arbitrage report, transmittal of annual audit and budget to the trustees, transmittal of annual audit and other information to dissemination agent (if other than manager) or directly to bond holders as required by Continuing Disclosure Agreements, annual/quarterly disclosure reporting, update, etc.

3) Prepare annual debt service fund budgets. Work with taxing officials to assure correct application of revenues and proper routing of payments to the trustee to assure proper bond debt pay-off. Track and account for debt service payments and prepayments and process debt lien releases.

Purchasing

1) Assist in selection of vendors as needed for services, goods, supplies, and materials.

2) Obtain pricing proposals as needed and in accordance with District rules and State law.

3) Prepare RFPs for services needed, including, when requested, preparation of specifications and bid documents for various professional, construction, and maintenance services.

Investment Services

1) All investments shall be made pursuant to applicable law and policies approved by the Board of Supervisors.

2) Recommend investment policies and procedures pursuant to State law.

3) Provide for investment of funds per approved policies.

Risk Management

1) Prepare and follow risk management policies and procedures.

2) Recommend and advise the Board of the appropriate amounts and types of insurance and be responsible for procuring all necessary insurance.

3) Process and assist in the investigation of insurance claims, in coordination with Counsel of the District.

4) Review insurance policies and coverage amounts of District vendors.

IV. Ancillary Services

The Administrator may develop additional tools and programs, as may be appropriate, to facilitate interest and participation in the Program. Administrator will only provide such ancillary services with the advance approval of the Authority, such approval not to be unreasonably withheld. Such ancillary services currently offered by Administrator include development and administration of a green business certification and marketing program for businesses (including those that do not utilize the financing program). Examples of future ancillary services may include, but are not necessarily limited to; workforce or energy auditor training programs; an online marketplace of green technologies (such as those used in Qualifying Improvements); a carbon-offset / environmental attribute and marketing program that helps participating property owners lower their environmental impact through a purchase of offsets or environmental attributes or earn a fee for the sale of carbon offsets or environmental attributes that they may own and wish to sell; a rewards program; or any other program or service that furthers the broad goals of the Program.

V. Fee Schedule

The Administrator shall be entitled to impose and collect fees and charges intended to sustain the operation of the Program in accordance with prudent financial management standards. Such fees shall include (i) community opt-in fees; (ii) finance program closing fees; and (iii) ongoing finance program administration fees. From time to time the Authority and the Administrator will evaluate the Program fees to ensure that the Program is priced to be competitive in the marketplace. The initial Schedule of Fees is as set forth in Schedule 1.

Schedule 1

Fee Schedule

Community Opt-In Fee Schedule*

Tier (Based On Population)	Opt-In Fee	Opt-Out Year 1	Opt-Out Year 2	Opt-Out Year 3 Or Later	Alternative Opt-In Fee With Free Opt-Out
Tier 1 (0 – 19,999)	Free	$12,500	$6,250	No charge	$10,000
Tier 2 (20,000 – 74,999)	Free	$15,000	$7,500	No charge	$12,500
Tier 3 (75,000 – 199,999)	Free	$17,500	$8,750	No charge	$15,000
Tier 4 (200,000 – 499,999)	Free	$20,000	$10,000	No charge	$17,500
Tier 5 (500,000+)	Free	$22,500	$11,250	No charge	$20,000

* Opt In fees cover the upfront legal costs of establishing the district as well as the technology set-up costs of adding the community to the Program web platform.

Finance Program Closing Fee Schedule

Fee Type	Residential*	Small Commercial (≤$100,000)	Large Commercial (>$100,000)
Application Processing Fee	$50	$0 (Waived)	$0 (Waived)
Energy Audit (pass-through)**	$0.02/sq ft	**Simple Buildings:** -$0.02/sq ft (lighting) -$0.06/sq ft (comprehensive) **Complex Buildings:** -$0.10 - $0.25/sq ft	**Simple Buildings:** -$0.02/sq ft (lighting) -$0.06/sq ft (comprehensive) **Complex Buildings:** -$0.10 - $0.25/sq ft
Technical Project Review (pass-through)**	$50	$195	$495
Appraisal Fee (optional) (pass-through)**	TBD	Est. $2.5k - $5k	Est. $5k - $10k
Title Search (pass-through)**	$425	$425	$425
Jurisdiction Set up Fee	$0	$0	$0
Recording Fee (Set by Florida statute) (pass-through)**	$10 for 1st page; $8.50 each add'l page; $0.60 abstract fee plus doc. stamp tax of $0.35/$1,000.	$10 for 1st page; $8.50 each add'l page; $0.60 abstract fee plus doc. stamp tax of $0.35/$1,000.	$10 for 1st page; $8.50 each add'l page; $0.60 abstract fee plus doc. stamp tax of $0.35/$1,000.
Origination Fee	2.5% of cost of the improvement	2.5% of cost of the improvement	2.5% of cost of the improvement
Bond Counsel Legal Fees (pass-through)**	TBD	TBD	TBD
Progress Payment Request (if applicable)	TBD	$200	$200
Pre-install Site Inspection (optional)	TBD	$525	$525
Post-install Site Inspection (optional)	TBD	$675	$675
Debt Service Reserve Fund (if required)	TBD	Est. 10% of financed amount (subject to lender approval)	Est. 10% of financed amount (subject to lender approval)

* Residential Program Fees only go into effect if the Residential Program is offered and becomes available pending resolution of legal uncertainty given FHFA, Fannie Mae and Freddie Mac litigation.

** Pass-through fees are estimates of third-party charges and are subject to change.

Finance Program Administrative Fees

Fee Type	Residential	Small Commercial (≤$10,000 sq ft)	Large Commercial (>$10,000 sq ft)
PACE District Admin. Fee[1]	0.5% of collected amount	0.5% of collected amount	0.5% of collected amount
PACE District Legal Fee (Incurred by Authority)	0.5% of collected amount	0.5% of collected amount	0.5% of collected amount
Property Appraiser[2,3] (pass-through)**	$150/year + $0.75/per parcel	$150/year + $0.75/per parcel	$150/year + $0.75/per parcel
Tax Collector[2,4] (pass-through)**	1-2% of collections	1-2% of collections	1-2% of collections

* Residential Program Fees only go into effect if the Residential Program is offered and becomes available pending resolution of legal uncertainty given FHFA, Fannie Mae and Freddie Mac litigation.

** Pass-through fees are estimates of third-party charges and are subject to change.

[1] The PACE District Administration fees cover the cost of the annual audit for the PACE governmental authority along with district management fees and costs to manage the Authority, prepare the assessment role, and to legally advertise and hold four (4) quarterly hearings per year.

[2] District assessments are considered levied by the County for purposes of determining commissions under Chapter 192, F.S. Payments must be paid quarterly.

[3] Chapter 197, F.S. requires reimbursement to the Property Appraiser for administrative costs, $150 per year plus an annual fee of $0.75 per parcel subject to the assessment.

[4] The amount of the fee is dependent on the actual assessments, not to exceed 2%.

EXHIBIT B

CURRENT LIST OF SUBCONTRACTORS & LICENSES

Current List of Subcontractors

Erin L. Deady, P.A.
EcoChamber, Inc.
Lewis, Longman & Walker, P.A.
Renewable Funding, LLC
Demeter Power Group, Inc.
Special District Services, Inc.
Zamia Ventures, LLC
Green Bureau, LLC

Current List of Licenses

Demeter Power Group, Inc. d/b/a Demeter Fund (PACE3P™)
Green Bureau, LLC (web-based sustainability tool)

Party Membership Agreement
To The Florida Green Finance Authority

WPB Contract No. 11068
WPB Res. No. 152-12

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, establishing the Florida Green Finance Authority as a means of implementing and financing a qualifying improvements program for energy conservation and efficiency improvements, and to provide additional services consistent with law; and

WHEREAS, the City of West Palm Beach desires to become a member of the Florida Green Finance Authority in order to facilitating the financing of qualifying improvements for energy conservation for those located within the City;

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 (the "Interlocal Agreement"), for the purpose of facilitating the financing of qualifying improvements for energy conservation and efficiency 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.

2. The Florida Green Finance Authority, together with its member Parties, and the **City of West Palm Beach**, with the intent to be bound thereto, hereby agree that the **City of West Palm Beach** 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 West Palm Beach**.

4. The **City of West Palm Beach** hereby agrees to appoint a representative to serve as an Authority Board Director serving an initial term of three (3) years. All Parties acknowledge that the remaining Directors will each be appointed by the governing body of the first Party from each requisite water management district boundary area that joins the Authority through execution of this Agreement and that desires to serve as a Director.

5. The **City of West Palm Beach** designates the following as the respective place for any notices to be given pursuant to the Interlocal Agreement Section 27:

West Palm Beach:

City Administrator
City of West Palm Beach
401 Clematis Street
(P.O. Box 3366; 33402-3366)
West Palm Beach, FL 33401

With a copy to:

City Attorney
City of West Palm Beach
401 Clematis Street
(P.O. Box 3366; 33402-3366)
West Palm Beach, FL 33401

6. This Party Membership Agreement shall be filed by the Authority with the Clerk of the Circuit Court in the Public Records of Palm Beach County as an amendment to the Interlocal Agreement, 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

By: _____
Secretary of the Authority

Approved by Authority Attorney
as to form and legal sufficiency

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

By: _____
Chair of the Authority

_____
Authority ~~Attorney~~

ATTEST

By: _____
~~Interim~~ City Clerk

(CitySeal)

City of West Palm Beach, a municipal corporation of the State of Florida

By: _____
Geraldine Muoio, Mayor

City Attorney's Office
Approved as to form and legality
By: _____

Exhibit B
Party Membership Agreement
To The Florida Green Finance Authority

The Interlocal Agreement between the Florida Green Finance Authority, the Town of Lantana and the Town of Mangonia Park (the "Interlocal Agreement") entered into on June 11th, 2012 for the purpose of facilitating the financing of qualifying improvements for energy conservation and efficiency 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 Signatory Party Membership Agreement, which is fully incorporated into the Interlocal Agreement as follows:

The Florida Green Finance Authority, together with its member Parties, and the **City of Delray Beach**, with the intent to be bound thereto, hereby agree that the **City of Delray Beach** shall become a Party to the Interlocal Agreement together with all of the rights and obligations of Parties to the Interlocal Agreement.

The **City of Delray Beach** hereby agrees to appoint a representative to serve as a member of the Authority. All Parties acknowledge that the remaining five (5) Directors will each be appointed by the governing body of the first Party from each requisite water management district boundary area that joins the Authority through execution of this Agreement and that desires to serve as a Director serving an initial term of three (3) years.

The **City of Delray Beach** designates the following as the respective place for any notices to be given pursuant to the Interlocal Agreement Section 27:

Delray Beach:	David T. Harden City of Delray Beach 100 NW 1st Avenue Delray Beach, FL 33444
With a Copy to:	Corbett and White, P.A. Authority Attorney 1111 Hypoluxo Road, Suite 207 Lantana, FL 33462 Attn: Keith W. Davis, Esq.

IN WITNESS WHEREOF, the Parties hereto subscribe their names to this Interlocal Agreement by their duly authorized officers on this 25th day of June, 2012.

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 Delray Beach, a municipal corporation of the State of Florida

BY: _____
City Clerk

BY: _____
Nelson S. McDuffie, Mayor

(Affix Town Seal)

Approved by City Attorney
as to form and legal sufficiency

_____
City Attorney 6/25/12

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, establishing the Florida Green Finance Authority as a means of implementing and financing a qualifying improvements program for energy conservation and efficiency improvements, and to provide additional services consistent with law; and

WHEREAS, the City of Boynton Beach desires to become a member of the Florida Green Finance Authority in order to facilitate the financing of qualifying improvements for energy conservation for those businesses located within the City.

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 (the "Interlocal Agreement"), for the purpose of facilitating the financing of qualifying improvements for energy conservation and efficiency through 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.

2. The Florida Green Finance Authority, together with its member Parties and the City of Boynton Beach, with the intent to be bound thereto, hereby agree that the City of Boynton Beach 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 Boynton Beach.

4. The City of Boynton Beach hereby agrees to appoint a representative to serve as an Authority Board Director serving an initial term of three (3) years. All Parties acknowledge that the remaining Directors will each be appointed by the governing body from each requisite water management district boundary area that joins the Authority through execution of this Agreement and that desires to serve as a Director.

5. The City of Boynton Beach designates the following as the respective place for any notices to be given pursuant to the Interlocal Agreement Section 27:

Boynton Beach: Lori LaVerriere
Interim City Manager
100 East Boynton Beach Boulevard
Boynton Beach, FL 33435

With a copy to: James A. Cherof, Esquire
City Attorney
Goren, Cherof, Doody & Ezrol, P.A.
3099 E. Commercial Boulevard, Ste. 200
Ft. Lauderdale, FL 33308

6. This Party Membership Agreement shall be filed by the Authority with the Clerk of the Circuit Court in the Public Records of Palm Beach County as an amendment to the Interlocal Agreement, 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

By: _____
Secretary of the Authority

Approved by Authority Attorney
as to form and legal sufficiency:

_____
Authority Attorney

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

By: _____
Chair of the Authority

ATTEST:

By: Janet M. Prainito
Janet M. Prainito, MMC, City Clerk

(CitySeal)

Approved as to form and legal sufficiency

By: _____
James A. Cherof, City Attorney

City of Boynton Beach, a municipal corporation of the State of Florida

By: Woodrow L. Hay
Woodrow L. Hay, Mayor

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, establishing the Florida Green Finance Authority as a means of implementing and financing a qualifying improvements program for energy conservation and efficiency improvements, and to provide additional services consistent with law; and

WHEREAS, the Village of Tequesta, Florida, a Florida municipal corporation ("Village of Tequesta") desires to become a member of the Florida Green Finance Authority in order to facilitating the financing of qualifying improvements for energy conservation for those improved properties located within the Village of Tequesta.

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 (the "Interlocal Agreement"), for the purpose of facilitating the financing of qualifying improvements for energy conservation and efficiency 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.

2. The Florida Green Finance Authority, together with its member Parties, and the Village of Tequesta, with the intent to be bound thereto, hereby agree that the Village of Tequesta 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 Village of Tequesta.

4. The Village of Tequesta acknowledges that it is ineligible to appoint a representative to serve as an Authority Board Director at this time, since available board seats for the South Florida Water Management District boundary area have already been filled. All Parties acknowledge that the remaining Directors will each be appointed by the governing body of the first Party from each requisite water management district boundary area that joins the Authority through execution of this Agreement and that desires to serve as a Director.

5. The Village of Tequesta designates the following as the respective place for any notices to be given pursuant to the Interlocal Agreement Section 27:

Village of Tequesta:

Village Manager
Village of Tequesta
345 Tequesta Drive
Tequesta, Florida 33469

With a copy to:

Village Attorney
Village of Tequesta
345 Tequesta Drive
Tequesta, Florida 33469

6. This Party Membership Agreement shall be filed by the Authority with the Clerk of the Circuit Court in the Public Records of Palm Beach County as an amendment to the Interlocal Agreement, 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

By: _____
Secretary of the Authority

Approved by Authority Attorney
as to form and legal sufficiency

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

By: _____
Chair of the Authority

_____
Authority Attorney

ATTEST

By: _____
Lori McWilliams, MMC
Village Clerk

(Village Seal)

The Village of Tequesta,
a municipal corporation of the State of Florida

By: _____
Thomas Paterno, Mayor

Village Attorney's Office
Approved as to form and legality
By: _____

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, establishing the Florida Green Finance Authority as a means of implementing and financing a qualifying improvements program for energy conservation and efficiency improvements, and to provide additional services consistent with law; and

WHEREAS, the City of Lake Worth desires to become a member of the Florida Green Finance Authority in order to facilitating the financing of qualifying improvements for energy conservation for those located within the City of Lake Worth;

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 (the "Interlocal Agreement"), for the purpose of facilitating the financing of qualifying improvements for energy conservation and efficiency 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.

2. The Florida Green Finance Authority, together with its member Parties, and the City of Lake Worth, with the intent to be bound thereto, hereby agree that the City of Lake Worth 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 Lake Worth.

4. The City of Lake Worth acknowledges that it is ineligible to appoint a representative to serve as an Authority Board Director at this time, since available board seats for the South Florida Water Management District boundary area have already been filled. All Parties acknowledge that the remaining Directors will each be appointed by the governing body of the first Party from each requisite water management district boundary area that joins the Authority through execution of this Agreement and that desires to serve as a Director.

5. The City of Lake Worth designates the following as the respective place for any notices to be given pursuant to the Interlocal Agreement Section 27:

City of Lake Worth:

Town Manager
City of Lake Worth
7 North Dixie Highway
Lake Worth, FL 33460

With a copy to:

City Attorney
City of Lake Worth
7 North Dixie Highway
Lake Worth, FL 33460

6. This Party Membership Agreement shall be filed by the Authority with the Clerk of the Circuit Court in the Public Records of Palm Beach County as an amendment to the Interlocal Agreement, 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

By:_____
Secretary of the Authority

Approved by Authority Attorney
as to form and legal sufficiency

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

By:_____
Chair of the Authority

_____
Authority Attorney

ATTEST

By:_____
Pamela Lopez, City Clerk

(CitySeal)

City of Lake Worth,
a municipal corporation of the State of Florida

By:_____
Pam Triolo, Mayor

City Attorney's Office
Approved as to form and legality

By:_____
Glen J. Torcivia, Interim City Attorney

Reviewed and Approved for Execution:

By:_____
Michael Bornstein, City Manager

Committee of the Whole **4.**

Meeting Date: 02/14/2013

Issue: Policy Regarding Legal Representation for Commissioners and County Employees

From: Alison Rogers, County Attorney

Information

Recommendation:

Policy Regarding Legal Representation for Commissioners and County Employees (Referred from January 8, 2013, Committee of the Whole Workshop)

(Alison Rogers - 30 min)

A. Board Discussion

B. Board Direction

Attachments

Legal Representation for Commissioners and County Employees Policy

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Board of County Commissioners
Escambia County, Florida

Title:	Legal Representation for Commissioners and County Employees
Date Adopted:	
Effective Date:	
Reference:	
Policy Amended:	New Policy

A. Purpose:

Commissioners, County employees, Board appointees and County agents should be entitled to some assurance that in the performance of a public service they will not be encumbered by the expense of defending a civil, criminal, ethics, administrative or professional licensing action predicated upon their official acts and reports and should not fear such expenses that may result from reprisals. Further, the Board of County Commissioners finds that it is necessary to encourage the continued participation in County government by alleviating the potential liability of persons having to expend their own funds for the payment of reasonable attorney's fees and costs when such persons are named in a criminal, civil, ethics, administrative or professional licensing action. In following this policy, the Board may only incur or reimburse reasonable attorney's fees and costs as allowed by Florida law.

B. Definitions:

"Costs" shall mean actual and verifiable costs incurred in the provision of a defense for the subject commissioner, employee, appointee or agent of the County. Any travel expenses shall be as provided in section 112.061, Florida Statutes.

"Reasonable attorney's fees" shall mean fees earned by an attorney and/or attorneys licensed to practice law in the State of Florida, based on the customary rate, whether a flat fee or per hour, charged in Escambia County, Florida, for similar work performed by attorneys within the County, but in no event to exceed $250 per hour unless a higher amount is approved by the Board due to extraordinary circumstances.

"Successfully defend" or "prevail" shall apply to individual counts, charges and/or allegations, and shall mean dismissal, a finding of not guilty or a verdict of no liability in favor of the person covered herein as set forth below. In a civil case, a judgment of nominal damages or a judgment of 25% or less than a proposal for settlement served by the Commissioner or employee pursuant to Florida Statutes and the Florida Rules of Civil Procedure, which is entered against the Commissioner or employee may be considered as a successful defense or as prevailing as circumstances warrant. A failure to successfully defend or prevail against one or more counts, charges or allegations shall not necessarily affect the application of the policy to other counts, charges and/or allegations which were successfully defended or against which the

officer or employee prevailed.

C. Policy.

It is the Board's policy that for cases involving current and former County employees, Board appointees and County agents personally named in any civil, criminal, ethics, administrative or professional licensing action for any act within the scope of their duties and responsibilities, the County will prospectively provide legal representation or pay reasonable attorney's fees and costs if the procedures in this policy are followed and if allowed by Florida Law.

Cases involving current or former County Commissioners personally named in any civil, criminal, ethics, administrative or professional licensing case that arises out of and in connection with their scope of County function shall be addressed by the Board of County Commissioners on a case-by-case basis. Florida law shall be followed with regards to any payment or reimbursement of legal fees or prospective retention of legal representation. Any current or former County Commissioner personally named in a civil, criminal, ethics, administrative or professional licensing action and who desires the County pay for on an ongoing basis or reimburse legal fees shall follow the procedures set forth in this policy. For cases involving current or former County Commissioners, out of the Sunshine litigation strategy meetings set forth in section 286.011(8), Florida Statutes are discouraged but may be allowed by majority vote of the Board should circumstances warrant.

D. Procedures:

Any person who believes that he or she is allowed or entitled to payment or reimbursement of reasonable attorney's fees and costs or retention of legal representation shall, as a condition precedent to such payment, retention or reimbursement, notify the County through its County Attorney in writing within 10 days of their knowledge of a relevant action or within 10 days of retaining a private attorney, whichever is applicable. The request shall at a minimum set forth:

1. The name and current address of the person making the request;
2. A description of the entity conducting the investigation or proceeding;
3. The case number or file number of the investigation or proceeding, if known;
4. A description of each count, charge and/or allegation made or being investigated;
5. The dates(s) that the alleged wrongful incidents are alleged to have occurred;
6. The person's office or position of employment with the County on the dates described in (5.) above;
7. The reasons why it is believed that the attorney's fees and costs should be paid by the County;
8. The name(s), address, and telephone number of the attorney(s) representing such person against the counts, charges, and/or allegations described in (4.) above, if applicable;
9. A description of the fee arrangement or agreement between the person and his or her attorney(s); the amount of attorney's fees and costs paid to the date of the written request for attorney's fees and costs for defense against the

counts, charges and/or allegations described in (4.) above; and the total balance due, if any, of all attorney's fees and costs that have been incurred in defense against the counts, charges, and/or allegations described in (4.) above; and

10. Such other information as the Board of County Commissioners and/or the County Attorney's Office may reasonably require.

E. <u>Board Action.</u>

The County Attorney shall review all requests provided pursuant to section D of this policy and within a reasonable time shall prepare and present an agenda item for consideration by the Board. In any case where the County Attorney believes the matter can be ethically, legally and expeditiously handled in-house, the recommendation shall so state. In all other instances, the County Attorney shall make a recommendation on the applicability of this policy to the request for retention of legal representation or payment or reimbursement of reasonable attorney's fees and costs.

For a civil action, the recommendation shall support payment, reimbursement or retention of legal counsel unless there has been a finding or it appears clear from the relevant materials that the person is personally liable, acted outside the scope of employment, or in bad faith, with malicious purpose or wanton disregard of human rights, safety or property pursuant to section 111.07, Florida Statutes.

For other actions the recommendation shall support payment, reimbursement or retention of legal counsel so long as it appears the alleged misconduct arose out of or in connection with the performance of their official duties and while serving a public purpose pursuant to Florida case law.

For a recommendation regarding a criminal charge for violation of Florida's Sunshine law, the recommendation shall reflect that Florida law specifically authorizes reimbursement of reasonable attorney's fees and costs upon acquittal pursuant to section 286.011(7), Florida Statutes.

The Board may:

1. Request additional relevant information from the applicant or County Attorney; or
2. Continue the request to a date and time certain; or
3. Take action upon the written request and determine if the attorney's fees and costs shall be reimbursed or paid, and if so, in what amount; or
4. Allow the County Attorney to represent the applicant or other counsel to be retained; or
5. Deny the request and make appropriate findings.

F. <u>Agreement.</u>

In any event where the County has prospectively provided legal representation or is paying reasonable attorney's fees and costs prior to disposition of an action or claim,

the Board may require the individual to execute an agreement with the County which shall require reimbursement to the County in the following circumstances:

1. In a civil action where the individual did not prevail and was found personally liable, to have acted outside the scope of employment, or in bad faith, with malicious purpose or wanton disregard of human rights, safety or property; or
2. In any other action where upon disposition of the case the Board of County Commissioners determined the alleged misconduct did not arise out of or in connection with their official duties or the individual was not serving a public purpose; or
3. In any case where prevailing Florida law would not allow the County to cover the expenses of the legal representation.

Regardless of whether an agreement is entered or not, the Board may authorize legal action to recoup expenses in cases where reimbursement is due to the County based on application of either this policy or Florida law.

G. <u>Investigations and Grand Jury Investigations.</u>

Florida law may not allow payment or reimbursement of reasonable attorney's fees and costs or retention of outside counsel in cases involving solely an investigation or a grand jury investigation. In the event a person subject to this policy believes they are entitled to relief, he or she may bring the request to the County Attorney, as set forth in this policy, and the County Attorney will review it and take a recommendation to the Board of County Commissioners in a timely fashion.

Committee of the Whole **5.**

Meeting Date: 02/14/2013

Issue: Discussion of Local Option Sales Tax IV

From: George Touart, Interim County Administrator

Information

Recommendation:

Discussion of Local Option Sales Tax IV
(George Touart/Larry Newsom) - 30 min)
A. Board Discussion
B. Board Direction

Attachments

Discussion Items for LOST IV

DISCUSSION ITEMS FOR LOCAL OPTION SALES TAX IV
COMMITTEE OF THE WHOLE
THURSDAY, FEBRUARY 14, 2013

1. When does Local Option Sales Tax (LOST) III expire?
2. When should promotion begin for LOST IV?
3. Due date for related project lists?
4. Which election ballot should LOST IV be placed on?
5. Could we place the item on a ballot that coincides with a parallel election in either Santa Rosa County or the City of Pensacola?

Committee of the Whole **6.**

Meeting Date: 02/14/2013

Issue: Commissioner Appointment to the Escambia County Transportation Disadvantaged Coordinating Board

From: George Touart, Interim County Administrator

Information

Recommendation:

Commissioner Appointment to the Escambia County Transportation Disadvantaged Coordinating Board
(Julia Pearsall/Larry Newsom - 15 min)
A. Board Discussion
B. Board Direction

Attachments

Inter-Office Memorandum from Charlie Peppler

Synopsis of the Esc. Co. TDCE

Coordinating Board Membership Certification

ESCAMBIA COUNTY

INTER-OFFICE MEMORANDUM

TO: Larry Newsom, Assistant County Administrator
Judy Witterstaeter, Program Coordinator

FROM: Charles V. Peppler, Deputy County Attorney CVP

DATE: January 30, 2013

RE: Appointment of Commissioner to the Transportation Disadvantaged Coordinating Board

You have asked me to look into whether the Board needs to appoint one of the Commissioners to the Transportation Disadvantaged Coordinating Board (TDCB). The TDCB advises the Alabama-Florida Transportation Planning Organization. According to F.A.C. Ch. 41-2.012, the purpose of the Coordinating Board is to identify local service needs and to provide information, advice, and direction. According to this rule, the Alabama-Florida TPO shall appoint one elected official to serve as the official chairperson for all TDCB meetings. The elected official who serves as the chairperson shall serve until the elected term of his or her office has expired or is otherwise replaced by the Alabama-Florida TPO. TDCB meets quarterly and performs various duties as set forth in §427.0157, Fla. Stat.

From the information provided to me by Judy and Julie Pearsall with the Alabama-Florida TPO, Ms. Marie Young had served as the chairperson of TDCB for the past 12 years due to her service as a City Council member and as a member of the Board of County Commissioners. It is my recommendation that Larry bring this before the next Committee of the Whole meeting for the Board to discuss whom among the County Commissioners would be willing to serve as chairperson. Because many of the Board members are on various committees, it will require discussion among the Board members as to whom would be the appropriate Commissioner to serve as Chair. Should the Board decide at the Committee of the Whole to submit one of its members for selection as Chair, then it can be ratified at the next regular Board meeting on February 21st. Judy can submit the name of the Commissioner to Ms. Pearsall at the Alabama-Florida TPO. The next meeting of the TDCB is February 26, 2013 and the Alabama-Florida TPO would want to appoint a chairperson at this meeting.

CVP/el

ESCAMBIA COUNTY TRANSPORTATION DISADVANTAGED COORDINATING BOARD

The Escambia County Transportation Disadvantaged Coordinating Board is a public body appointed by the Designated Official Planning Agency (DOPA), the Florida-Alabama TPO, as authorized by Section 427.015 Florida Statutes. The membership of the Coordinating Board represents the appropriate parties pursuant to Rule 41-2 012(3), Florida Administration Code.

The purpose of the Coordinating Board is to develop local service needs and provide information, advice, and direction to the Community Transportation Coordinator on the coordination of service to be provided to the transportation disadvantaged.

The Florida-Alabama TPO shall appoint an elected official from the county which the Coordinating Board serves, to serve as the official Chairperson to preside at all Coordinating Board meetings. The Chairperson shall be appointed to serve the length of his or her term. The Planning Agency shall replace the Chairperson at the end of his or her term.

The Florida-Alabama TPO serves multiple counties and defers to each county to select the local elected official for their county.

Vice-Chairperson

The Board shall hold an organizational meeting each year for the purpose of electing a Vice-Chairperson. The Vice-Chairperson shall be elected by a majority vote of a quorum of the members of the Board present and voting at the organizational meeting. The Vice-Chairperson shall serve a term of one year starting with the first meeting after the election. The Vice Chairman may serve more than one term.

Local Coordinating Board composition

The local coordinating board consists a local elected official, a variety of State and Local agency representatives, citizens represent the elderly, the disabled, economically disadvantaged, a user of the system, a citizen to represent the community in general, mass transit, local medical community and children at risk.

A commissioner is appointed to the Board by the Board of County Commissioners Chairperson.

Voting Members of the Local Coordinating Board, required by 41-2 Florida Administrative Code:

An elected official from the service area, serving as the chairperson;
A representative of the Florida Department of Transportation;
A representative of the Florida Department of Children and Families;
A representative of the Public Education Community which could include, but not be limited to, a representative of the District School Board, School Board Transportation Office, or Head Start Program in areas where the School District is responsible;
In areas where they exist, a local representative of the Florida Division of Vocation Rehabilitation or the Division of Blind Services, representing the Department of Education;
A person who is recognized by the Florida Department of Veterans' Affairs as a representative of the veterans in the service area;
A person who represents the economically disadvantaged and is recognized by the Commission's Community Action Representative;
A person over sixty years of age representing the elderly in the service area;
A person with a disability representing the disabled in the county;
Two citizen advocates representatives, one must be a user of the system;
A local representative for children at risk;
The Chairperson or designee of the local Mass Transit or Public Transit System's Board, except in cases where they are also the Community Transportation Coordinator;
A local representative of the Florida Department of Elder Affairs, and
An experienced representative of the local private for profit transportation industry. In areas where such representative is not available, a local private non-profit representative will be appointed, except where said representative is also the Community Transportation Coordinator.
A local representative of the Florida Agency for Health Care Administration, Medicaid Program;
A representative of the Regional Workforce Development Board established in Chapter 455, Florida Statutes; and
A representative of the local medical community, which may include, but not be limited to kidney dialysis centers, long term care facilities, assisted living facilities, hospitals, local health department or other home or community based services, etc.

COORDINATING BOARD MEMBERSHIP CERTIFICATION

Escambia County, Florida

Name: Florida Alabama Transportation Planning Organization Address: P. O. Box 11399, Pensacola, FL 32524-1399

The Metropolitan Planning Organization named above hereby certifies to the following:

1. The membership of the Local Coordinating Board, established pursuant to Rule 41-2.012(3), FAC, does in fact represent the appropriate parties as identified in the following list; and
2. The membership represents, to the maximum extent feasible, a cross section of the local community.

REPRESENTATION	MEMBER'S NAME	ALTERNATE'S NAME	TERM
(1) Chair (Elected Official)	Marie Young	Larry Vickrey (Vice Chair)	
(2) Elderly	John Clark	Ann Brown	2011-2014
(3) Disabled	Warren Jernigan	Frank Cherry	2010-2013
(4) Citizen Advocate	Sarah Johnson	Barbara Mayall	2010-2013
(5) Citizen Advocate/User	Cynthia Barnes	Jonita Taylor	2011-2014
(6) Veteran Services	Mark Brooks	Aleshia Hall	2011-2014
(7) Community Action	Larry Vickrey	Orlando Woodard	2012-2015
(8) Local Public Education	Vacant		2011-2014
(9) Florida Department of Transportation	Kathy Rudd	Vanessa Strickland	
(10) Department of Children and Families	Randy Fleming	Malva Weaver	
(11) Florida Department of Education	Michael Whitehead	Lisa O' Quinn	
(12) Department of Elder Affairs	Gwendolyn Rhodes	Voncile Goldsmith	
(13) Agency for Health Care Administration	John Vinski	John Maraldo	
(14) Children at Risk	Linda Harris	Patricia Parker	2012-2015
(15) Private Transportation Industry	Karen Locklear		2010-2013
(16) Mass/Public Transit	Mary Lou Franzoni	Tonya Ellis	
(17) Local Medical Community	Cheryl Henrichs	Wendy Perry	2012-2015
(18) Workforce Development Board	Susan Nelms	Bill Barron	

SIGNATURE: K W White TITLE: TPO Chair DATE: 6/28/2012

Committee of the Whole **7.**

Meeting Date: 02/14/2013

Issue: Discussion Concerning the Emerald Coast Utilities Authority

From: George Touart, Interim County Administrator

Information

Recommendation:

Discussion Concerning the Emerald Coast Utilities Authority (NO BACKUP PROVIDED)
(George Touart - 30 min)
A. Board Discussion
B. Board Direction

Committee of the Whole **8.**

Meeting Date: 02/14/2013

Issue: City of Pensacola and Gulf Breeze Agreement for Natural Gas Franchise Assignment

From: Alison Rogers, County Attorney

Information

Recommendation:

City of Pensacola and Gulf Breeze Agreement for Natural Gas Franchise Assignment
(Alison Rogers - 30 min)
A. Board Discussion
B. Board Direction

Attachments

Agreement for Natural Gas Franchise Assignment

AGREEMENT FOR
NATURAL GAS FRANCHISE ASSIGNMENT

THIS AGREEMENT is made and entered into as of the 4th day of February, 2013, between THE CITY OF PENSACOLA, a Florida municipal corporation ("**Pensacola**"), and THE CITY OF GULF BREEZE, a Florida municipal corporation ("**Gulf Breeze**"), sometimes referred to herein collectively as the "Parties" or individually as a "Party."

RECITALS

WHEREAS, Pensacola, doing business under the name of Pensacola Energy (f/k/a Energy Services of Pensacola), owns and operates facilities for the distribution and sale of natural gas in Escambia County, Florida; and,

WHEREAS, pursuant to certain resolutions and ordinances enacted by the Board of County Commissioners of Escambia County, Florida, including but not limited to Escambia County Ordinance 95-7, (hereinafter all such ordinances and resolutions are collectively referred to as the "Franchise Ordinance") Pensacola (i) has conducted certain of its natural gas operations in portions of Escambia County, or (ii) has the right to conduct its natural gas operations in portions of Escambia County where it may not heretofore have engaged in and/or is not currently engaging in natural gas operations (e.g., Santa Rosa Island); and,

WHEREAS, Pensacola is willing to sell and Gulf Breeze is willing to purchase any and all natural gas franchise rights, interests, or authority that Pensacola has or may have with respect to the portion of Santa Rosa Island located in Escambia County ("**Santa Rosa Island**"), including those provided in the Franchise Ordinance;

NOW, THEREFORE, based upon the above recitals and for and in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledge, the Parties hereby agree as follows:

1. **Purchase Price:** Subject to the terms and conditions set forth in this Agreement, within fifteen (15) days after the date of satisfaction or written waiver of all conditions stated in Paragraph 3 of this Agreement ("**the Effective Date**"), Gulf Breeze agrees to pay to Pensacola the sum of Four Hundred Seventy Thousand and XX/100 Dollars ($470,000.00) (hereinafter the "Purchase Price") for the conveyance, transfer, and assignment of all rights, benefits, authorizations, and privileges to provide natural gas utility service, including those contemplated in the Franchise Ordinance, as they pertain to Santa Rosa Island (hereinafter the "Pensacola Beach Franchise Rights").

2. **Conveyances, Etc:** Subject to the terms hereof, including the conditions precedent set forth in Paragraph 3, below, and Pensacola's right of first refusal set forth in Paragraph 4, below, Pensacola does hereby:

(a) Convey, transfer and assign to Gulf Breeze the Pensacola Beach Franchise Rights and any and all of Pensacola's rights to erect, install, extend, maintain, and operate on Santa Rosa Island a system of works, pipes, pipelines, apparatus, equipment, machinery, structures, infrastructure and other improvements reasonably necessary or appropriate for a natural gas utility; and

(b) Waive in favor of and release unto Gulf Breeze any and all rights, claims and causes of action Pensacola now has and in the future might have to own, operate and maintain a natural gas utility on Santa Rosa Island.

Pensacola covenants and warrants unto Gulf Breeze that: (i) Pensacola is the lawful owner of the Pensacola Beach Franchise Rights; (ii) Pensacola has not assigned, conveyed, sold or encumbered any right or interest in or to the Pensacola Beach Franchise Rights; and, (iii) Subject to any required approvals to assign the rights (e.g., from Escambia County), Pensacola has good right and lawful authority to assign, transfer, and convey the Pensacola Beach Franchise Rights to Gulf Breeze; and (iv) Pensacola has taken all actions necessary to authorize execution and performance of the terms of this Agreement.

3. **Conditions Precedent:** The Parties' obligations in and under this Agreement are subject to satisfaction or prior written waiver of each of the following conditions precedent:

(a) Unconditional approval of all terms of this Agreement, without modification, by the Board of County Commissioners of Escambia County, Florida ("**the County Commission**");

(b) The County Commission's adoption of an ordinance: (1) re-affirming Pensacola's exclusive gas franchise for all portions of Escambia County, Florida, except the previously excepted areas within the Town of Century and Santa Rosa Island; and (2) releasing and discharging Pensacola from all obligations to observe, comply with, or perform the requirements of the Franchise Ordinance with respect to Santa Rosa Island;

(c) The County Commission adopting an ordinance and Gulf Breeze's acceptance thereof granting unto Gulf Breeze a franchise to conduct natural gas utility operations to, at, and upon Santa Rosa Island which franchise ordinance must contain terms that are substantially similar to those set forth in the Franchise Ordinance (save and except that the ordinance need not contain any cap or limitation upon the amount or percentage of franchise fees that may be assessed by Escambia County provided that such franchise fees are uniformly imposed upon all utility franchisees);

(d) Performance or satisfaction of such conditions as Escambia County may reasonably require in connection with or as conditions for the actions contemplated in subparagraphs (a) through (c), above in this paragraph 3; and

(e) A mutual release of all claims, in a form acceptable to both Parties, relating in any manner to the subject matter or disputes which gave rise to this Agreement or the Gas Supply Contract which either Party may currently have or which arises as a result of actions that occurred prior to the Effective Date.

The Parties will cooperate with each other and will jointly pursue the County Commission's approvals, with the goal that such approvals are obtained as soon as practicable.

4. **Right of First Refusal:** In the event Gulf Breeze should during the term of this Agreement solicit or receive an offer from a third party that includes or seeks the sale or conveyance of the Pensacola Beach Franchise Rights, Gulf Breeze shall require such offer to separately itemize and apportion the terms, conditions, and considerations thereof applicable to the conveyance of the Pensacola Beach Franchise Rights. Before Gulf Breeze may accept any such offer, it must submit to Pensacola the separately itemized terms, conditions, and consideration applicable to the sale or conveyance of the Pensacola Beach Franchise Rights. Pensacola shall then have thirty (30) days within which to exercise a right of first refusal to purchase and acquire the Pensacola Beach Franchise Rights on and for the same terms, conditions, and considerations as set forth in the separate itemization. If Pensacola elects to exercise its right of first refusal, it must do so in writing and the written acceptance must be received by Gulf Breeze within thirty (30) days of the date that Gulf Breeze furnishes to Pensacola the separately itemized terms, conditions, and considerations proposed by or offered to a third party for purchase or acquisitions of the Pensacola Beach Franchise Rights. If for any reason Pensacola fails to provide such written acceptance to Gulf Breeze within this thirty (30) day time period, Pensacola's right of first refusal as contemplated in this paragraph shall immediately upon expiration of this thirty (30) day time period be deemed to have been waived, terminated, expired, and for no further force and effect.

Notwithstanding the provisions of the preceding paragraph, Pensacola's right of first refusal as set forth in the preceding paragraph shall not apply, and Gulf Breeze shall be free to sell or convey the Pensacola Beach Franchise Rights without regard to, being subject to, or complying with the provisions of the preceding paragraph, if the Pensacola Beach Franchise Rights are sold or conveyed (i) to a governmental or quasi-governmental entity, an interlocal agency as contemplated in Florida Statutes Chapter 163, a partnership or other business organization as to whom Gulf Breeze maintains an ownership interest, or a nonprofit organization recognized as tax-exempt under Section 501(c) of the Internal Revenue Code; or (ii) pursuant to a sealed bid basis; provided, however, in the event of a sale or conveyance of the Pensacola Beach Franchise Rights to an entity described in the preceding clause (i) without Pensacola being offered the right of first refusal as

contemplated in the preceding paragraph, the entity purchasing or receiving such conveyance shall remain subject to the terms, conditions, and limitations of Pensacola's right of first refusal as contemplated in this Paragraph 4.

5. **Fees and Costs:** The Parties will share equally the mediation fees due to Clark Partington Hart Larry Bond & Stackhouse.

6. **Joint Defense:** As of the Effective Date, Pensacola and Gulf Breeze will jointly and severally defend and equally share the costs and expenses relating to any and all legal or administrative challenges related to or arising out of the matters set forth in Paragraphs 1 and 2, above.

7. **Entire Agreement:** The Parties agree and acknowledge that the terms and conditions set forth herein contain the entire understandings and agreements of the Parties with respect to the subject matter hereof and supersede all prior proposals, agreements, and understandings between the Parties. Other than those set forth in this Agreement, there are no promises, covenants, or undertakings contained in any other written or oral agreement, communication, or document.

8. **Territorial Agreement:** The Parties hereby agree and declare as follows:

(a) The areas of south Santa Rosa County where Gulf Breeze either currently provides or is able to provide natural gas utility service or which are not served by Okaloosa Gas District together with Santa Rosa Island (hereinafter collectively the "Gulf Breeze Service Territory") shall be deemed to be part of Gulf Breeze's exclusive territory for purposes of natural gas utility service and shall not be part of Pensacola's natural gas utility service territory;

(b) All other areas of Escambia County as contemplated in the Franchise Ordinance excluding Santa Rosa Island (hereinafter the "Pensacola Service Territory") shall be deemed to be part of Pensacola's exclusive territory for purposes of natural gas utility service and shall not be part of Gulf Breeze's natural gas utility service territory;

(c) Pensacola will not in any manner, directly or indirectly, provide or attempt to provide any natural gas utility services or similar utility services to or within the Gulf Breeze Service Territory;

(d) Gulf Breeze will not in any manner, directly or indirectly, provide or attempt to provide any natural gas utility services or similar utility services to or within the Pensacola Service Territory;

(e) Pensacola relinquishes unto Gulf Breeze all rights, privileges, and authorizations to provide natural gas utility service or similar utility service to or within the Gulf Breeze Service Territory;

(f) Gulf Breeze relinquishes unto Pensacola all rights, privileges, and authorizations to provide natural gas utility service or similar utility service to or within the Pensacola Service Territory;

(g) Pensacola will not in any manner, directly or indirectly, compete against Gulf Breeze with respect to natural gas utility service to or within the Gulf Breeze Service Territory; and

(h) Gulf Breeze will not in any manner, directly or indirectly, compete against Pensacola with respect to natural gas utility service to or within the Pensacola Service Territory.

9. **Exclusion of Gas Sales:** Except as otherwise expressly stated herein, this Agreement concerns only the purchase and assignment of the Pensacola Beach Franchise Rights does not include, extend to or address any claims, issues or other matters concerning the purchase and sale of the natural gas between Gulf Breeze and Pensacola.

10. **Notices:** Any notice or other communication required or permitted to be given by this Agreement or by applicable law shall be in writing and shall be deemed received (a) on the date delivered, if sent by hand delivery (to the person or department if one is specified below) with receipt acknowledged by the recipient thereof, (b) five (5) business days after the date deposited in the U.S. mail, certified or registered, with return receipt requested, or (c) one (1) business day after the date deposited with Federal Express or other nationally recognized overnight carrier, and in each case addressed as follows:

To Pensacola:
Pensacola Energy
ATTN: Director
1625 Atwood Drive
Pensacola, Florida 32514
Facsimile: (850) 474-5331

To Gulf Breeze:
City of Gulf Breeze
ATTN: City Manager
P.O. Box 640
1070 Shoreline Drive
Gulf Breeze, Florida 32562-0640
Facsimile: (850) 934-5114

11. **Successors and Assigns:** Whenever in this Agreement any party is referred to, such reference shall be deemed to include the successors and assigns of such party; and all covenants, promises and agreements of the Parties which are contained in this Agreement shall bind each Party's successors and assigns and shall inure to the benefit of the successors and assigns of each of the other Parties.

12. **Governing Law:** This Agreement shall be governed by and interpreted in accordance with the laws of the State of Florida (without regard to conflict of laws principles).

13. **Non-Waiver:** Neither any failure nor any delay on the part of any Party in exercising any right, power or privilege under this Agreement shall operate as a waiver thereof, nor shall a single or partial exercise thereof preclude any other or further exercise or the exercise of any other right, power or privilege.

14. **Modification and Amendment:** No modification, amendment or waiver of any provision of this Agreement shall be effective unless the same shall be in writing and signed by each of the Parties, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given.

15. **Counterparts:** This Agreement may be executed in two or more counterparts, each of which shall constitute an original, but when taken together shall constitute but one agreement, and any Party may execute this Agreement by executing any one or more of such counterparts.

16. **Section Titles:** The section titles contained in this Agreement are and shall be without substantive meaning or content of any kind whatsoever and are not a part of the agreement between the Parties.

17. **Enforcement Costs:** If any Party to this Agreement employs attorneys to enforce any rights arising out of or related to this Agreement, the prevailing Party in any litigation, arbitration or mediation shall be entitled to recover, in addition to all other available relief, its reasonable attorneys' fees, costs, expert witness fees, investigatory costs and all other related expenses in all proceedings (including but not limited to pre-trial, mediation, arbitration, trial, and appellate proceedings).

18. EACH PARTY HAS READ THIS AGREEMENT AND INTENDS TO BE LEGALLY BOUND BY ITS TERMS.

CITY OF PENSACOLA, FLORIDA

By: P.C. Wu
P.C. Wu, President of
City Council

By:
Ashton J. Hayward, III, Mayor

William H. Reynolds
City Administrator
City of Pensacola

ATTEST:

By: Ericka L. Burnett
Ericka L. Burnett, City Clerk

CITY OF GULF BREEZE, FLORIDA

By: Beverly H. Zimmern
Beverly Zimmern, Mayor

ATTEST:

By: Marita Rhodes
Marita Rhodes, City Clerk

Legal in Form and Valid as Drawn

Jim Messer
City Attorney

Approved As To Content

Don J. Suarez
Pensacola Energy Director

Committee of the Whole **9.**

Meeting Date: 02/14/2013

Issue: Raising Chickens Accessory to Single-Family Dwelling

From: T. Lloyd Kerr, AICP, Department Director

Information

Recommendation:

Raising Chickens Accessory to Single-Family Dwellings
(T. Lloyd Kerr -30 min)
A. Board Discussion
B. Board Direction

Attachments

Presentation

Chickens

LDC Current Regulations

- Farm animals. Any animal that customarily is raised and/or bred on farms and has the potential of causing a nuisance if not properly maintained, including, but not limited to: dairy animals, poultry, and livestock such as beef cattle, bison, goats, horses, sheep, and swine.
- 6.04.01.Unless otherwise authorized as provided herein, land uses not listed or included as permitted uses in a given zoning classification shall be considered prohibited uses in such zoning classification.

Zoning Districts

AG 1.5 ac.

VAG-1 20 ac.

VAG-2 5ac.

Allowed with 2 acres.

VR-1 Villages Rural Residential

VR-2 Villages Rural Residential

VR-3 Villages Rural Residential

RR Rural Residential District

LDC Proposed Regulations

- 6.03.01. Accessory uses. Activities or uses customarily associated with and appropriately incidental and subordinate to the principal use when located on the same lot as such principal use shall be considered an accessory use and shall adhere to the conditions set forth in this section. Such accessory uses shall be controlled in the same manner as the principal use within the district where such uses are located, except as otherwise provided in section 2.10.06. Accessory uses include, but are not limited to, the following:
- I. Raising Chickens (Gallus Domesticus) Accessory to Single Family Dwellings. This use is accessory for all single family residential. Regardless of any prohibition of farm animals or minimum lot area for such animals, the raising of chickens is allowed in all zoning districts provided the following standards must be met:
- Property must be a minimum of one acre in size
- No more than eight chickens to a single residence
- Chickens must be kept in coops, pens or enclosures to prevent access from predators
- All pens, coops, or enclosure must a minimum of 50 feet from an adjacent dwelling, school or public building.
- Roosters are prohibited
- Prohibits keeping chickens for sale unless allowed by zoning
- Property line setback of 30 feet.

Costs Involved

- Three New Animal Control Officers
  - Cost per officer - $38,475 each; totaling $115,425
- Each new ACO will be required to be FACA certified.
  - Training and associated travel is approximately $1,000 per ACO
- Three Additional AC Vehicles with Rescue Units
  - Cost $23,920/truck; $20,915/Rescue Unit =$44,835 per vehicle totaling $134,505.
- No provision for chickens at the animal shelter

Funding Source

- General Fund
  - Code Enforcement

City Ordinance

- Coops, pens or enclosures required
- Free ranging is allowed on your property
- Not within 30 feet of an adjacent dwelling, church, hospital, school, public building or park.
- Prohibits roosters or more than 8 at a single residence.
- Prohibits keeping for sale unless allowed by zoning

Committee of the Whole **10.**

Meeting Date: 02/14/2013

Issue: Regional Transportation Financing Authority

From: Larry Newsom, Assistant County Administrator

Information

Recommendation:

Regional Transportation Financing Authority Discussion Concerning a Resolution to Be Brought Forth to the Next Board Meeting - (BACKUP TO BE DISTRIBUTED UNDER SEPARATE COVER)

(Larry Newsom/Commissioner Valentino - 15 min)

A. Board Discussion

B. Board Direction
