

Meeting Date
March 20, 2018



ADD ON

AGENDA	
Section	New Business
Item No.	VI F 2

AGENDA REPORT
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

Moved from II D3

SUBJECT:	Brevard County Property Assessed Clean Energy Program					
DEPT/OFFICE:	Citizen Request / Ritch Workman					
Requested Action:						
<p>It is requested that the Board approve and authorize the Chair to execute the following upon County Attorney and Risk Management approval:</p> <ul style="list-style-type: none"> • Resolution creating a Property Assessed Clean Energy (PACE) Program within Brevard County and to allow residential, commercial and industrial property owners to voluntarily use PACE financing as a mechanism to fund qualified energy conservation and efficiency improvements, renewable energy improvements, and wind resistance improvements, • A non-exclusive Party Membership Agreement with the Florida Green Finance Authority, • A non-exclusive Interlocal Agreement with the Florida PACE Funding Agency, • A non-exclusive Membership Agreement with the Green Corridor Property Assessment Clean Energy (PACE) District, • A non-exclusive Limited Purpose Party Membership Agreement with the Florida Resiliency and Energy District. 						
Summary Explanation & Background:						
<p>Financing options for property improvements has proved to be a limiting factor for homeowners and building owners looking to improve the energy efficiency and energy conservation of their residences/buildings, as well as to mitigate wind damage. Several Florida communities and cities across the U.S. shared similar findings and now more than 136 local governments and 20 counties in Florida have launched community-based financing programs to address this market barrier.</p>						
<p>Property Assessed Clean Energy (PACE) has emerged as the useful method of developing voluntary, community-based finance programs for wind protection, energy efficiency and renewable energy improvements. PACE was created to overcome commonly cited barriers to energy efficiency investments, including:</p> <ul style="list-style-type: none"> • High up-front costs for energy efficiency, renewable energy and wind mitigation improvements; and • Challenges of identifying contractors knowledgeable about the effectiveness of efficiency improvements. 						
<p>Pursuant to the Florida PACE enabling legislation (Fla. Stat. 163.08), a local government may establish a PACE financing program for qualified improvements wherein the local government or a third-party administrator (via an inter-local agreement between multiple Florida governments) provides project financing for the costs of qualified improvements and the property owner repays the costs, with interest, through a special assessment levied on the property. The PACE assessments are repaid over a set term and billed annually on the property tax bill as a non-ad valorem assessment.</p>						
<p>By approving a multi-provider PACE Program, the County would provide options for business and homeowners to voluntarily participate in PACE financing programs for residential and commercial property. The programs currently providing financing allowed by Florida's PACE legislation include:</p> <ul style="list-style-type: none"> • Florida PACE Funding Agency • Clean Energy Green Corridor/Ygrene • Florida Green Finance Authority/Renew Financial • FL Resiliency and Energy District/Renovate America 						
<p>Each of these agencies oversee all aspects of the program including general administration, contractor training and oversight, marketing, levy of the assessments, financing and collections. The County is not responsible for any of those activities, but may choose to promote the program.</p>						
<p>Fiscal Impact: FY2017/2018: There is no direct financial impact to the County associated with this agenda item. Limited staff resources may be required to coordinate with each provider as their program is being implemented.</p>						
Clerk to the Board Instructions:						
Exhibits Attached: Resolution						
<p>Contract /Agreement (If attached): Reviewed by County Attorney <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> PR <input type="checkbox"/></p>						
County Manager Frank Abbate	Interim Assistant County Manager James P. Liesenfeld	Department Director / Extension				
	Assistant County Manager John Denninghoff					



FLORIDA'S SPACE COAST

Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

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Tammy.Rowe@brevardclerk.us



March 21, 2018

M E M O R A N D U M

TO: Scott Knox, County Attorney

RE: Item VI.F.2., Citizen Request by Ritch Workman for Brevard County Property Assessed Clean Energy Program

The Board of County Commissioners, in regular session on March 20, 2018, adopted Resolution No. 18-040, creating a Property Assessed Clean Energy (PACE) Program within Brevard County and to allow residential, commercial, and industrial property owners to voluntarily use PACE financing as a mechanism to fund qualified energy conservation and efficiency improvements, renewable energy improvements, and wind resistance improvements; approved a non-exclusive Party Membership Agreement with Florida Green Finance Authority; approved a non-exclusive Interlocal Agreement with the Florida PACE Funding Agency; approved a non-exclusive Membership Agreement with the Green Corridor Property Assessment Clean Energy (PACE) District; and approved a non-exclusive Limited Purpose Party Membership Agreement with the Florida Resiliency and Energy District.

Upon execution of the Resolution and Agreements by the Chair, please return the documents to this office for attestation, distribution, and inclusion in the official minutes.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe, Deputy Clerk

cc: County Manager

RESOLUTION NO. R184-040

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, CREATING A PROPERTY ASSESSED CLEAN ENERGY (PACE) PROGRAM WITHIN BREVARD COUNTY BY PARTICIPATING IN THE PACE PROGRAMS OF THE FLORIDA GREEN FINANCE AUTHORITY, THE FLORIDA PACE FUNDING AGENCY, THE GREEN CORRIDOR PROPERTY ASSESSMENT CLEAN ENERGY (PACE) DISTRICT, AND THE FLORIDA RESILIENCY AND ENERGY DISTRICT TO PROVIDE A MECHANISM FOR THE VOLUNTARY FINANCING OF ENERGY CONSERVATION AND EFFICIENCY IMPROVEMENTS, RENEWABLE ENERGY IMPROVEMENTS, AND WIND RESISTANCE IMPROVEMENTS; APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION OF A NON-EXCLUSIVE PARTY MEMBERSHIP AGREEMENT WITH THE FLORIDA GREEN FINANCE AUTHORITY, A NON-EXCLUSIVE INTERLOCAL AGREEMENT WITH THE FLORIDA PACE FUNDING AGENCY, A NON-EXCLUSIVE MEMBERSHIP AGREEMENT WITH THE GREEN CORRIDOR PROPERTY ASSESSMENT CLEAN ENERGY (PACE) DISTRICT, AND A NON-EXCLUSIVE LIMITED PURPOSE PARTY MEMBERSHIP AGREEMENT WITH THE FLORIDA RESILIENCY AND ENERGY DISTRICT, PURSUANT TO WHICH SUCH ENTITIES OR THEIR ADMINISTRATORS WILL ADMINISTER THEIR RESPECTIVE VOLUNTARY PACE FINANCING PROGRAM FOR SUCH IMPROVEMENTS WITHIN ALL BREVARD COUNTY; AUTHORIZING AND DIRECTING COUNTY OFFICIALS, OFFICERS, AND EMPLOYEES TO TAKE SUCH ACTIONS AS MAY BE NECESSARY OR DESIRABLE IN FURTHERANCE OF THE PURPOSES OF THIS RESOLUTION; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

Upon motion by Commissioner Kristine Isnard seconded by Commissioner Curt Smith, the following resolution was adopted by a vote of 4 to 1, with Commissioner(s) John Tobia voting No; Commissioner(s) _____ being absent.

WHEREAS, Section 163.08, Florida Statutes (the "Act"), authorizes counties, municipalities and separate local government entities to establish and administer financing programs pursuant to which owners of real property may obtain funding for energy conservation and efficiency, renewable energy and wind resistance improvements

(referred to in the Act as “Qualifying Improvements”), and repay such funding through voluntary special assessments, non-ad valorem assessments (“Special Assessments”), levied upon the improved property pursuant to financing agreements between the owner thereof and the local government (collectively, “PACE Program”); and

WHEREAS, pursuant to the Act, local governments may enter into a partnership with other local governments for the purpose of providing and financing Qualifying Improvements, and a PACE Program may be administered by a third party at the discretion of the local government; and

WHEREAS, installing Qualifying Improvements on existing structures can reduce the burdens resulting from fossil fuel energy production, including greenhouse gas reductions; and

WHEREAS, increased energy conservation, and installing wind resistance improvements on existing structures can reduce repair and insurance costs, and the burdens placed on surrounding properties resulting from high wind storms and hurricanes; and

WHEREAS, the Florida Green Finance Authority, the Florida PACE Funding Agency, the Green Corridor Property Assessment Clean Energy (PACE) District, and the Florida Resiliency and Energy District are currently four separate legal entities (PACE providers) within the State of Florida which were established by separate interlocal agreements for the express purpose of providing a scalable and uniform platform to facilitate the financing of Qualifying Improvements to local governments throughout Florida; and

WHEREAS, the PACE providers undertake all such acts as are necessary to provide a uniform, efficient, and scalable statewide platform in Florida, so that, when authorized by individual local governments, the PACE providers can facilitate the provision, funding and financing of energy conservation, renewable energy, and wind-resistance improvement to Florida properties; and

WHEREAS, each of the PACE providers has provided evidence to Brevard County (the “County”) that each of the respective PACE Programs has created open public governance and oversight and qualified third-party administration. Each of the PACE providers can commence their respective PACE Program in all areas of Brevard County for the benefit of the residents thereof; and

WHEREAS, the availability of the voluntary, non-exclusive PACE Programs offered by each of the PACE providers (without cost to, assumption of liability by, or demand upon the credit of the County) and the voluntary participation in such PACE Programs by property owners will provide an alternative financing option to finance and repay the costs to provide and install Qualifying Improvements to property owners in all areas of Brevard; and

WHEREAS, the Board of County Commissioners (the “Board”) of the County finds that local needs and conditions reasonably warrant the establishment of each of the PACE providers non-exclusive PACE Programs within all areas of Brevard County as a direct and immediate means to non-exclusively implement Section 163.08, Florida Statutes; and

WHEREAS, each of the referenced agreements provides non-exclusive means to achieve the compelling State interests and public purposes described in the Act; and

WHEREAS, the Board deems it to be in the best interest of the citizens and residents of Brevard County to authorize the appropriate County officials to execute, each of the referenced agreements, in substantially the forms attached hereto, to provide a non-exclusive means to implement Section 163.08, Florida Statutes;

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

SECTION 1. RECITALS. The recitals set forth above are adopted by the Board as the findings of the County and are incorporated herein.

SECTION 2. NON-EXCLUSIVE PARTY MEMBERSHIP AGREEMENT WITH THE FLORIDA GREEN FINANCE AUTHORITY. The non-exclusive Party Membership Agreement between the County and the Florida Green Finance Authority (the “Party Membership Agreement”), in substantially the form attached hereto as Exhibit A-1, and incorporated herein, is approved. The Chair of the Board is authorized and directed to execute the Party Membership Agreement on behalf of the County. A copy of the Interlocal Agreement between the Florida Green Finance Authority, the Town of Lantana and the Town of Mangonia Park, the First Amended and Restated Interlocal Agreement forming the Florida Green Finance Authority, and the Second Amended and Restated Interlocal Agreement forming the Florida Green Finance Authority are also attached hereto and incorporated herein as Exhibit A-2.

SECTION 3. NON-EXCLUSIVE INTERLOCAL AGREEMENT RELATING TO THE FUNDING AND FINANCING OF QUALIFYING IMPROVEMENTS BY THE FLORIDA PACE FUNDING AGENCY. The Non-Exclusive Interlocal Agreement Relating to the Funding and Financing of Qualifying Improvements between the County and the Florida PACE Funding Agency (the “Non-Exclusive Interlocal Agreement”), in substantially the form attached hereto as Exhibit B-1, and incorporated herein, is approved. The Chair of the Board is authorized and directed to execute the Non-Exclusive Interlocal Agreement on behalf of the County. A specimen copy of the Amended and Restated Interlocal Agreement Relating to the Establishment of the Florida PACE Funding Agency is also attached hereto and incorporated herein as Exhibit B-2.

SECTION 4. NON-EXCLUSIVE MEMBERSHIP AGREEMENT WITH THE GREEN CORRIDOR PROPERTY ASSESSMENT CLEAN ENERGY (PACE) DISTRICT. The non-exclusive Membership Agreement between the County and the Green Corridor Property Assessment Clean Energy (PACE) District (the “Membership Agreement”), in substantially the form attached hereto as Exhibit C-1 and incorporated herein, is approved. The Chair of the Board is authorized and directed to execute the Membership Agreement on behalf of the County. A copy of the Amended and Restated Interlocal Agreement between the Town of Cutler Bay, Village of Palmetto Bay, Village of Pinecrest, City of South Miami, Miami Shores Village, City of Coral Gables and City of Miami is also attached hereto and incorporated herein as Exhibit C-2.

SECTION 5. NON-EXCLUSIVE LIMITED PURPOSE PARTY MEMBERSHIP AGREEMENT WITH FLORIDA RESILIENCY AND ENERGY DISTRICT. The non-exclusive Limited Purpose Party Membership Agreement between the County and the Florida Resiliency and Energy District (the “Limited Purpose Party Membership Agreement”), in substantially the form attached hereto as Exhibit D-1, and incorporated herein, is approved. The Chair of the Board is authorized and directed to execute the Limited Purpose Party Membership Agreement on behalf of the County. A copy of the Interlocal Agreement Relating to the Creation of the Florida Resiliency and Energy District and the Amended and Restated Agreement Relating to the Creation of the Florida Resiliency and Energy District is also attached hereto and incorporated herein as Exhibit D-2.

SECTION 6. PROGRAM BOUNDARIES. The provisions of this Resolution shall include the legal boundaries of Brevard County, Florida, including municipalities and unincorporated areas, unless in conflict with a municipal resolution or ordinance. The municipal resolution or ordinance shall prevail to the extent of the conflict. The intention of the County Commission being to allow for multiple non-exclusive service opportunities to interested private property owners, so that all property owners have a wide variety of competitive choices from qualified local governments. Nothing in this resolution shall be construed as excluding any municipality from creating an additional, separate or standalone program at any time.

SECTION 7. AUTHORIZATIONS. The Chair of the Board, the County Administrator of the County, the Clerk of the Circuit Court, and such other officers and employees of the County as may be designated by the County Administrator, are authorized and directed, collectively or individually, to take such actions and execute and deliver such other documents as may be necessary or desirable, and which are specifically authorized by or are not inconsistent with the terms of this Resolution or the agreements herein approved, in furtherance of the purposes set forth in this Resolution.

SECTION 9. CONDITION PRECEDENT. The interlocal agreements are subject to the express condition precedent that each entity in Sections 2, 3, 4, 5 enter into separate agreements(s) with the tax collector and the property appraiser having

jurisdiction over the legal boundaries of the COUNTY, which shall provide for the collection of any non-ad valorem special assessments imposed by the entity within the legal boundaries of the COUNTY. If required by the tax collector and property appraiser, the COUNTY agrees to enter into those agreements as a third party to facilitate the collection of the non-ad valorem special assessment imposed by the entity.

SECTION 10. SEVERABILITY. If any one or more of the provisions of this Resolution shall for any reason be held illegal or invalid, such illegality or invalidity shall not affect any other provision contained herein.

SECTION 11. EFFECTIVE DATE. This Resolution shall be effective immediately upon its adoption.

(Signatures on the following page)

DONE, ORDERED, AND ADOPTED, in regular session, this 20 day of March, 2018.

BREVARD COUNTY

By: 

RITA PRITCHETT, CHAIR
BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FL

(as approved by the Board on March 20 2018)

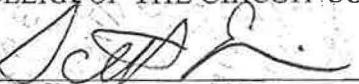
STATE OF FLORIDA
COUNTY OF BREVARD

Scott

I, Ellis, Clerk of the Circuit Court and Ex Officio Clerk of the Board of County Commissioners of Brevard County, Florida, do hereby certify that the above and foregoing is a true and correct copy of a resolution adopted by the Board at its regular meeting of March 20, 2018 as the same appears of record in Minute Book _____ of the Public Records of Brevard County, Florida.

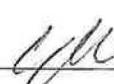
WITNESS my hand and official seal this 20 day of March, 2018.

Scott Ellis, CLERK OF THE CIRCUIT COURT

By: 

SCOTT ELLIS, CLERK

Approved as to Form and Legal Sufficiency

By: 

COUNTY ATTORNEY

STATE OF FLORIDA
COUNTY OF BREVARD

This is to certify that the foregoing
is a true and current copy of Resolution
02-2018-040 witness my hand
and official seal this 11 day of
May 2018
SCOTT ELLIS, Clerk of Circuit Court

BY Deborah Pritchett D.C.