

Levy County Board of County Commissioners
Agenda Item Summary

1. DEPARTMENT MAKING REQUEST/NAME/EXTENSION:

Anne Bast Brown, Ext. 3389

2. MEETING DATE:

May 16, 2017

3. REQUESTED MOTION/ACTION:

Approval of Resolution Number 2017-026 authorizing execution of a Non-Exclusive Interlocal Subscription Agreement with Florida PACE Funding Agency

4. IS THIS ITEM BUDGETED (IF APPLICABLE)? YES__ NO__ *IF NO, STATE ACTION REQUIRED* NOT APPLICABLE

BUDGET ACTION:

DETAILED ANALYSIS ATTACHED?: YES__ NO__ BUDGET OFFICER APPROVAL NOT APPLICABLE DATE _____

FUNDING SOURCE: ACCOUNT NUMBER:

5. BACKGROUND: (WHY IS THE ACTION NECESSARY, AND WHAT ACTION WILL BE ACCOMPLISHED)

At its meeting on February 21, 2017, the Board provided direction by consensus to pursue agreements with various local government entities that were created to provide financing to private property owners for certain energy efficient, renewable energy or wind resistant improvements ("qualifying improvements") to their property, in accordance with Section 163.08, Florida Statutes. The attached Resolution and Subscription Agreement will allow property owners of property located within the boundaries of Levy County to use the financing program offered by Florida PACE Funding Agency in order to finance qualifying improvements.

6. RECOMMENDED APPROVAL AND DATE (YES & NO BLOCK INDICATE IF APPROVAL IS/IS NOT REQUIRED)

DEPARTMENT DIRECTOR YES__ NO__	OTHER YES__ NO__	OTHER YES__ NO__	OTHER YES__ NO__	NOT APPLICABLE COUNTY ATTORNEY YES__ NO__	COUNTY COORDINATOR YES__ NO__
				ADB 5-10-17	

7. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED DATE TO BRING BACK:
- OTHER SPECIFY:

**RESOLUTION
NUMBER 2017-026**

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF LEVY COUNTY, FLORIDA, AUTHORIZING THE EXECUTION OF A NON-EXCLUSIVE INTERLOCAL SUBSCRIPTION AGREEMENT WITH THE FLORIDA PACE FUNDING AGENCY AND DIRECTING COUNTY OFFICIALS, OFFICERS, EMPLOYEES AND AGENTS TO TAKE SUCH ACTIONS AS MAY BE NECESSARY OR DESIRABLE IN FURTHERANCE OF THE PURPOSES OF THIS RESOLUTION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 163.08, Florida Statutes (the "Supplemental Act"), authorizes local governments 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 (as referred to therein, the "Qualifying Improvements"), and repay such funding through voluntary special assessments, sometimes referred to as non-ad valorem assessments ("Special Assessments"), levied upon the improved private property evidenced by financing agreements between the owner thereof and the local government (the "Financing Agreements"); and

WHEREAS, the Florida PACE Funding Agency (the "Agency"), is a separate legal entity and distinct unit of local government, established by separate interlocal agreement pursuant to Chapter 163, Florida Statutes ("Charter Agreement"), for the express purpose of providing a scalable and uniform platform to facilitate the funding and financing of Qualifying Improvements to private property owners throughout Florida

(the "Program") utilizing the imposition of Special Assessments as authorized under the Supplemental Act; and

WHEREAS, the Agency's Charter Agreement provides that other local governments may become subscribing or participating local governments relative to the Program by entering into a subscription agreement with the Agency, which would allow the Program to become available to private property owners within the boundaries of a participating local government in order to finance Qualifying Improvements for such private property owners; and

WHEREAS, the County recognizes that entering into a subscription agreement with the Agency relative to the Program would present a means to non-exclusively implement the provisions and benefits of the Supplemental Act for property owners within the County; and

WHEREAS, by entering into a proposed subscription agreement with the Agency, the County has no intention to, nor shall it be, in any manner obligated to impose any Special Assessments, to pay any debts, obligations or liabilities arising as result of any actions of the Agency or its officials or agents or as a result of the operation of the Program, or to be subject to any power or authority of the Agency whatsoever; and

WHEREAS, the Board finds that it is reasonable and in the interest of the health, safety, and welfare of the County and its citizens, residents, and property owners to authorize the appropriate County officials to execute a subscription agreement between the Agency and the County to provide the benefits and provisions of the Supplemental

Act through the availability of the Program to such citizens, residents, and property owners, while assuming no liability or responsibility for such Program on the County;

NOW THEREFORE BE IT RESOLVED BY THE COUNTY COMMISSION OF LEVY COUNTY, FLORIDA, AS FOLLOWS:

SECTION 1. RECITALS. The foregoing recitals are incorporated in this Resolution as if fully set forth herein and are approved and adopted.

SECTION 2. NON-EXCLUSIVE INTERLOCAL SUBSCRIPTION AGREEMENT. The Non-Exclusive Interlocal Subscription Agreement ("Subscription Agreement"), a copy of which is attached hereto as Exhibit "A," and incorporated herein, is hereby approved. The Chair, or in the Chair's absence or inability, the Vice-Chair, is hereby authorized and directed to execute and record the Subscription Agreement on behalf of the County. The County hereby delegates to the County Coordinator, or his or her designee, the discretion and authority to allow the Agency to use and display the County logo only for communicative purposes associated with the Program, and for no other purpose. The County Coordinator or his/her designee, County Attorney, County staff, officials and agents are hereby authorized and directed to take all such actions and execute and deliver such other documents as may be necessary or desirable in furtherance of the purposes set forth herein and in the Subscription Agreement.

SECTION 3. All resolutions or parts of resolutions on in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 4. If any clause, section, other part or application of this Resolution is held by any court of competent jurisdiction to be unconstitutional or invalid, in part or

application, it shall not affect the validity of the remaining portions or applications of this Resolution.

SECTION 5. This Resolution shall become effective immediately upon adoption.

DULY ADOPTED in regular session this ____ day of _____ 2017.

**BOARD OF COUNTY COMMISSIONERS
OF LEVY COUNTY, FLORIDA**

John Meeks, Chair

ATTEST: Danny J. Shipp,
Clerk of the Circuit Court and
Ex Officio Clerk to the Board of
County Commissioners

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

Danny J. Shipp, Clerk

Anne Bast Brown

Anne Bast Brown, County Attorney

z:\res\pace.FLPACEagency.doc
LR2014-141

EXHIBIT "A"

NON-EXCLUSIVE INTERLOCAL SUBSCRIPTION AGREEMENT

**NON-EXCLUSIVE INTERLOCAL SUBSCRIPTION AGREEMENT
RELATING TO THE FUNDING AND FINANCING
OF QUALIFYING IMPROVEMENTS BY THE
FLORIDA PACE FUNDING AGENCY**

Between

LEVY COUNTY, FLORIDA,

and

THE FLORIDA PACE FUNDING AGENCY

TABLE OF CONTENTS

PAGE

ARTICLE I
DEFINITIONS AND CONSTRUCTION

SECTION 1.01.	DEFINITIONS	1
SECTION 1.02.	CONSTRUCTION.....	3
SECTION 1.03.	SECTION HEADINGS.....	3
SECTION 1.04.	FINDINGS.....	3

ARTICLE II
SUBSCRIPTION

SECTION 2.01.	AUTHORITY	5
SECTION 2.02.	CREATION OF STATE, COUNTY OR MUNICIPAL DEBTS PROHIBITED.....	5
SECTION 2.03.	ADOPTION OF RATES, FEES AND CHARGES.....	5
SECTION 2.04.	FINANCING AGREEMENTS.....	6
SECTION 2.05.	IMPOSITION OF SPECIAL ASSESSMENTS PURSUANT TO FINANCING AGREEMENTS.....	6
SECTION 2.06.	COLLECTION OF SPECIAL ASSESSMENTS	7
SECTION 2.07.	PLEDGE OF PROCEEDS FROM NON-AD VALOREM ASSESSMENTS.....	7
SECTION 2.08.	CARBON OR SIMILAR CREDITS	8

ARTICLE III
GENERAL PROVISIONS

SECTION 3.01.	INTERLOCAL AGREEMENT PROVISIONS	9
SECTION 3.02.	DISCLOSURE	9
SECTION 3.03.	TERM OF AGREEMENT, DURATION OF AGREEMENT; EXCLUSIVITY.....	10
SECTION 3.04.	AMENDMENTS AND WAIVERS.....	10
SECTION 3.05.	NOTICES.....	11
SECTION 3.06.	QUALITY CONTROL AND COMMUNICATION	11
SECTION 3.07.	IMMUNITY; LIMITED LIABILITY	12
SECTION 3.08.	BINDING EFFECT	13
SECTION 3.09.	SEVERABILITY	13
SECTION 3.10.	EXECUTION IN COUNTERPARTS	13
SECTION 3.11.	APPLICABLE LAW.....	13
SECTION 3.12.	ENTIRE AGREEMENT	13

**NON-EXCLUSIVE INTERLOCAL SUBSCRIPTION AGREEMENT
RELATING TO THE FUNDING AND FINANCING
OF QUALIFYING IMPROVEMENTS BY THE
FLORIDA PACE FUNDING AGENCY**

THIS NON-EXCLUSIVE INTERLOCAL SUBSCRIPTION AGREEMENT is made and entered into as of _____ 1, 20__ (the "Subscription Agreement"), by and between Levy County, Florida (herein the "Subscriber" or "Levy County"), and the Florida PACE Funding Agency, a separate legal entity and public body and unit of local government, established pursuant to Section 163.01(7)(g), Florida Statutes, (the "Agency"), by and through their respective governing bodies. The purpose of the Subscription Agreement is to secure, in an efficient and uniform manner, for the Property Owners (as hereinafter defined) within the jurisdiction and boundaries of the Subscriber the privileges and benefits provided for herein and by law, and particularly by Section 163.08, Florida Statutes, as amended (the "Supplemental Act"), relating to the voluntary determination by affected property owners to obtain and finance certain improvements to property for energy efficiency, renewable energy or wind resistance.

WITNESSETH:

NOW, THEREFORE, in consideration of the mutual covenants herein contained and for other good and valuable consideration each to the other, receipt of which is hereby acknowledged by each party, the Subscriber and the Agency hereby agree, stipulate and covenant as follows:

**ARTICLE I
DEFINITIONS AND CONSTRUCTION**

SECTION 1.01. DEFINITIONS. As used in this Agreement, the following terms shall have the meanings as defined unless the context requires otherwise:

"Board of Directors" means the governing body of the Agency.

"Agency" means the Florida PACE Funding Agency, a separate legal entity and public body and unit of local government. The name or acronym PACE is derived from the concept commonly referred to as 'property assessed clean energy' and relates hereto to the provisions of general law related to energy efficiency, renewable energy and wind resistance improvements encouraged by Section 163.08, Florida Statutes.

"Agency Charter Agreement" or **"Charter"** means, unless the context otherwise requires, the separate interlocal agreement which created and established the Agency, including any amendments and supplements hereto executed and delivered in accordance with the terms thereof.

"Financing Agreement" means the agreement authorized hereunder and by the Supplemental Act (specifically including section 163.08(4) thereof) between the Agency and a Property Owner providing for the funding to finance Qualifying Improvements and the imposition of a non-ad valorem Special Assessment against the Property Owner's assessed property.

"Financing Documents" shall mean the resolution or resolutions duly adopted by the Agency, as well as any indenture of trust, trust agreement, interlocal agreement or other instrument relating to the issuance or security of any bond or Obligations of the Agency and any agreement, pursuant to which the Property Owners obtain access to funds provided by the Agency.

"Obligations" shall mean a series of bonds, obligations or other evidence of indebtedness, including, but not limited to, notes, commercial paper, certificates or any other obligations of the Agency issued pursuant hereto, or under any general law provisions, and pursuant to the Financing Documents. The term shall also include any lawful obligation committed to by the Agency or pursuant to an interlocal agreement with another governmental body or agency and/or warrants issued for services rendered or administrative expenses.

"Pledged Funds" shall mean (A) the revenues derived from Special Assessments and other moneys received by the Agency or its designee relating to some portion thereof, (B) until applied in accordance with the terms of the Financing Documents, all moneys in the funds, accounts and sub-accounts established thereby, including investments therein, and (C) such other property, assets and moneys of the Agency as shall be pledged pursuant to the Financing Documents; in each case to the extent provided by the Board of Directors pursuant to the Financing Documents. The Pledged Funds pledged to one series of Obligations may be different than the Pledged Funds pledged to other series of Obligations. Pledged Funds shall not include any general or performance assurance fund or account of the Agency.

"Program" means the program operated by the Agency to provide financing for Qualifying Improvements undertaken within this State and the geographic bounds of the Subscriber. The Agency's Program is non-exclusive; and, the Subscriber may embrace or authorize any similar program under the Supplemental Act as the Subscriber sees fit and in the interest of the public.

"Property Owner" means, collectively, all of the record owners of real property subject to a Financing Agreement.

"Qualifying Improvements" means those improvements for energy efficiency, renewable energy, or wind resistance described in the Supplemental Act authorized to be affixed and/or installed by the Property Owner of an affected property. The term does not include similar improvements underwritten or financed by local, state or federal programs including, but not limited to State Housing Initiatives Partnership or SHIP Program, which are not secured by a special or non-ad valorem assessment.

"Special Assessments" means the non-ad valorem assessments authorized by the Supplemental Act and levied by the Agency on property owned by a Property Owner who has

entered into a Financing Agreement with the Agency to fund the costs of Qualifying Improvements.

"Subscriber" means Levy County, Florida, a political subdivision of the State of Florida.

"Subscription Agreement" or **"Interlocal Agreement"** means this interlocal agreement, or if the context requires a similar interlocal agreement between the Agency and any municipality, county or other government or separate legal entity permitted by the Supplemental Act to enter into Financing Agreements as provided for therein. The term subscription in the context simply presents a means of making available the service of funding and financing of Qualifying Improvements by the Agency to interested private property owners as provided by general law, and in no way is intended to imply or qualify Subscriber as a member or Incorporator of the Charter.

"Supplemental Act" means the provisions of, and additional and supplemental authority described in, Section 163.08, Florida Statutes, as amended.

SECTION 1.02 CONSTRUCTION.

(A) Words importing the singular number shall include the plural in each case and vice versa, and words importing persons shall include firms and corporations. The terms "herein," "hereunder," "hereby," "hereto," "hereof," and any similar terms, shall refer to this Subscription Agreement; the term "heretofore" shall mean before the date this Subscription Agreement is executed; and the term "hereafter" shall mean after the date this Subscription Agreement is executed.

(B) Each recital, covenant, agreement, representation and warranty made by a party herein shall be deemed to have been material and to have been relied on by the other party to this Subscription Agreement. Both parties have independently reviewed this Subscription Agreement with their own counsel and covenant that the provisions hereof shall not be construed for or against either the Subscriber or the Agency by reason of authorship.

SECTION 1.03. SECTION HEADINGS. Any headings preceding the texts of the several Articles and Sections of this interlocal agreement and any table of contents or marginal notes appended to copies hereof shall be solely for convenience of reference and shall neither constitute a part of this Subscription Agreement nor affect its meaning, construction or effect.

SECTION 1.04. FINDINGS. It is hereby ascertained, determined and declared that:

(A) The State Legislature has determined there is a compelling state interest in enabling private property owners to voluntarily finance Qualifying Improvements with local government assistance. The actions authorized by the Supplemental Act, including the financing of Qualifying Improvements through the execution of Financing Agreements and the

related imposition of a Special Assessment, are reasonable and are necessary for the prosperity and welfare of the State, and its property owners and inhabitants.

(B) The Agency has provided to the Subscriber a binding Final Judgment that expressly evidences the Agency is distinct from the Subscriber and that the Subscriber shall not in any manner be obligated to pay any debts, obligations or liabilities arising as a result of any actions of the Agency or its agents, and the Agency has no independent power to obligate the Subscriber.

(C) Nothing in this Agreement does, nor shall be construed to empower the Agency to obligate or foist any liability upon the Subscriber in any manner, without the express written permission of both parties; and no such permission is included in this Agreement.

(D) Notwithstanding anything to the contrary in the Charter or the Final Judgment, nothing in this Subscription Agreement is intended to provide for the Subscriber to impose, levy or collect any Special Assessments pursuant to the Supplemental Act.

(E) The availability of the non-exclusive Program offered by the Agency (without cost to, assumption of liability by or demand upon the credit of Levy County) and the voluntary participation in the Program by Property Owners provides an alternative financing option to private property owners to finance and repay the costs to provide and install Qualifying Improvements.

(F) The Agency is authorized by law pursuant to the provisions of the Supplemental Act to undertake the Program.

(G) This Agreement provides an alternative, supplemental and non-exclusive means to encourage and achieve, *inter alia*, immediate local economic development in a manner provided by the Legislature, provide for local commerce and job creation, as well as achieving the compelling State interest and public purposes described in the Supplemental Act.

[Remainder of page intentionally left blank.]

**ARTICLE II
SUBSCRIPTION**

SECTION 2.01. AUTHORITY.

(A) The execution hereof has been duly authorized by the resolution of the governing bodies of each party hereto.

(B) The Agency by this Subscription Agreement is approved to act to provide its lawful services, and lawfully conduct its affairs, within Levy County.

(C) This Subscription Agreement may be amended only by written amendment hereto.

SECTION 2.02. CREATION OF STATE, COUNTY OR MUNICIPAL DEBTS PROHIBITED. The Agency shall not be empowered or authorized in any manner to create a debt as against the State, any county, or any municipality, and may not pledge the full faith and credit of the State, any county, or any municipality. All revenue bonds or debt obligations of the Agency shall contain on the face thereof a statement to the effect that the State, any county or any municipality shall not be obligated to pay the same or the interest and that they are only payable from Agency revenues or the portion thereof for which they are issued and that neither the full faith and credit nor the taxing power of the State or of any political subdivision thereof is pledged to the payment of the principal of or the interest on such bonds. The issuance of revenue or refunding bonds under the provisions of law, the Charter Agreement, or this Subscription Agreement shall not directly or indirectly or contingently obligate the State, or any county or municipality to levy or to pledge any form of ad valorem taxation or other county or municipal revenues or to make any appropriation for their payment.

SECTION 2.03. ADOPTION OF RATES, FEES AND CHARGES.

(A) The Board of Directors necessarily must adopt or authorize from time to time by resolution such rates, fees or other charges for the provision of the services of the Agency to be paid by the Property Owner pursuant to a Financing Agreement described in the Supplemental Act.

(B) Such rates, fees and charges shall be adopted and revised so as to provide moneys, which, with other funds available for such purposes, shall be at least sufficient at all times to pay the expenses of administering, managing, and providing for the services and administration of the activities of the Agency, to pay costs and expenses provided for by law or the Charter Agreement and the Financing Documents, and to pay the principal and interest on the Obligations as the same shall become due and reserves therefore, and to provide for necessary administration and reasonable margin of safety over and above the total amount of such payments. Notwithstanding any other provision in the Charter Agreement or this Subscription Agreement, such rates, fees and charges shall always be sufficient to comply fully with any covenants contained in the Financing Documents.

(C) Such rates, fees and charges may vary from jurisdiction to jurisdiction, but shall be just and equitable and uniform at the time of imposition for the Property Owners within the same class, or within each subscribing local governmental jurisdiction, and may be based upon or computed upon any factor (including, by way of example and not limitation, competitive or market conditions, distinguishing between residential and non-residential properties or uses, distinguishing between variable costs of administrative services over time) or combination of factors affecting the demand or cost of the services furnished or provided to administer the services and affairs of the Agency as may be determined by the Board of Directors from time to time.

SECTION 2.04. FINANCING AGREEMENTS.

(A) The Agency shall prepare and provide to each participating property owner the form of the Financing Agreement which complies with the Supplemental Act and is in accordance with the Financing Documents as designated by the Board of Directors from time to time.

(B) The Agency, not the Subscriber, shall be solely responsible for all matters associated with imposition, levying, origination, funding, financing, collection and administration of each of the Special Assessments.

SECTION 2.05. IMPOSITION OF SPECIAL ASSESSMENTS PURSUANT TO FINANCING AGREEMENTS.

(A) Upon execution by the Property Owners and the Agency, the Financing Agreement or a summary or memorandum thereof shall be recorded by the Agency within five (5) days of execution or as required by Section 163.08(8), Florida Statutes, as amended. The recorded Financing Agreement, or summary or memorandum thereof, provides constructive notice that the non-ad valorem assessment to be levied on the subject property constitutes a lien of equal dignity to ad valorem taxes and assessments from the date of recordation.

(B) In a reasonably cooperative and uniform manner the Agency will provide a digital copy to the Levy County property appraiser or Levy County tax collector of the recorded Financing Agreement or summary thereof, the most recent property identification number and annual amount of the non-ad valorem assessment along with such other efficient and reasonable information necessary for the Levy County tax collector to collect such amounts as a non-ad valorem assessment on behalf of the Agency pursuant to Sections 197.3632 and 163.08, Florida Statutes.

(C) By law the Special Assessments must be collected pursuant to Sections 197.3632 and 163.08, Florida Statutes; and, are not imposed by the Subscriber, the Levy County property appraiser or the Levy County tax collector. The Special Assessments are levied and imposed solely by the Agency, and only then upon voluntary application of a private property owner as expressly enabled, authorized and encouraged by the Supplemental Act to accomplish a compelling state interest with local government assistance. The statutory duties of the property appraiser and the tax collector in each county, under section 197.3632, Florida Statutes, are

ministerial and the Levy County property appraiser and Levy County tax collector are by law without discretion with regard to the collection of the Special Assessments on the tax notice once the affected private property owner has voluntarily entered into a Financing Agreement with the Agency, and the Agency complies with the requirements of Sections 197.3632 and 163.08, Florida Statutes.

SECTION 2.06. COLLECTION OF SPECIAL ASSESSMENTS.

The Agency as a local government authorized by law to impose the Special Assessments, is also required by law to use the uniform method of collecting such Special Assessments, and shall be solely responsible for professionally coordinating all interface with the Levy County tax collector or Levy County property appraiser, and minimize to the greatest extent reasonably possible the time, effort and attention of these public officials to accomplish the public purposes and direction of the Supplemental Act.

SECTION 2.07. PLEDGE OF PROCEEDS FROM NON AD VALOREM ASSESSMENTS.

(A) The Agency will take such actions as are necessary for the lawful levy of the Special Assessments against all lands and properties specially benefitted by the acquisition, construction and financing of Qualifying Improvements. If any assessment made with respect to any property shall be either in whole or in part annulled, vacated or set aside by the judgment of any court, or if the Agency shall be satisfied that any such assessment is so irregular or defective that the same cannot be enforced or collected, the Agency will take all necessary steps to cause a new assessment to be made for the whole or any part of any Qualifying Improvements or against any property specially benefitted by such improvement, to the extent and in the manner provided by law.

(B) Pursuant to the Financing Documents and this Subscription Agreement, the Agency shall irrevocably pledge and, to the fullest extent permitted by law, pledge and assign any and all revenues derived from Special Assessments to the repayment of any debt obligation issued by the Agency pursuant to the Financing Documents.

(C) The Subscriber shall not incur or ever be requested to authorize any obligations secured by Special Assessments associated with Qualifying Improvements imposed by the Agency.

(D) Each series of Financing Documents shall be secured forthwith equally and ratably by a pledge of and lien upon the Special Assessments. The obligations of the Agency under and pursuant to the Financing Documents shall not be or constitute general obligations or an indebtedness of the Subscriber as "bonds" within the meaning of the Constitution of Florida, but shall be payable from and secured solely by a lien upon and pledge of the Special Assessments as provided herein. Neither the Agency nor any holder of any debt obligation issued by the Agency pursuant to the Financing Documents shall ever have the right to compel the exercise of the ad valorem taxing power of the Subscriber, or other taxation in any form, of property within the boundaries of the Subscriber to pay any amount due under any Financing

Documents or any Special Assessment. The Financing Documents shall not constitute a lien upon any property of or in the Subscriber's jurisdiction except as to the respective Special Assessments in the manner provided herein and by law.

SECTION 2.08. CARBON OR SIMILAR CREDITS. The form of Financing Agreement in each instance will provide for the transfer of any carbon or similar mitigation credits derived from Qualifying Improvements to the Agency, with such revenues therefrom, if any ever materialize, to be used by the Agency to underwrite generally its operation, mission and purpose.

[Remainder of page intentionally left blank.]

**ARTICLE III
GENERAL PROVISIONS**

SECTION 3.01. INTERLOCAL AGREEMENT PROVISIONS. This Subscription Agreement is deemed to be an "interlocal agreement" within the meaning of the Florida Interlocal Cooperation Act of 1969, as amended. This Interlocal Agreement shall be filed by the Agency with the Clerk of the Circuit Court of the county in which the Subscriber is located.

SECTION 3.02. DISCLOSURE.

(A) The Agency has provided a copy of (1) the Supplemental Act, (2) the Agency's Charter Agreement, (3) the Final Judgment in *Fla. PACE Funding Agency v. State*, No. 2011-CA-1824 (Fla. 2d Cir. Ct. 2011), and (4) other relevant disclosure information and background materials to the Subscriber prior to execution hereof. Subscriber, through its own staff and advisors, has independently reviewed and considered the foregoing and other relevant information of its choosing.

(B) The objective of the Agency's mission is to offer a uniform, standardized and scalable approach that provides efficiencies and economies of scale intended to attract voluntary financing of Qualifying Improvements by private property owners desirous of also achieving a compelling state interest and stimulate a substantial and meaningful flow of private sector economic activity and new job creation. In order to assist Agency and Property Owners within the Subscriber's jurisdictional boundaries in this mission, the Subscriber authorizes the non-exclusive availability of the Agency's funding and financing program to Property Owners within the Subscriber's jurisdictional boundaries. Accordingly, the Agency has engaged, and may engage in the future, various advisors, consultants, attorneys or other professionals or firms with recognized expertise necessary to accomplish the Agency's mission.

(C) Each of the various advisors, consultants, attorneys or other professionals engaged by the Agency has been, and shall in the future be, disclosed to the Subscriber. The Subscriber and Agency recognize, consider and acknowledge the fact or possibility that one or more of the various professionals or firms may serve as the advisor to the Agency in its mission, and to the Subscriber or another client in providing other similar professional services, outside of the provision, funding and financing of Qualifying Improvements. Such circumstance is acceptable and will not be construed as a conflict, be objected to unreasonably, nor be used as the basis for its disqualification of such professionals or firms from any continued or future representation of either party hereto which can otherwise be resolved by a reasonable waiver. This conflict waiver does not apply to litigation or other adversarial proceedings filed against the Subscriber.

SECTION 3.03. TERM OF AGREEMENT; DURATION OF AGREEMENT; EXCLUSIVITY.

(A) The term of this Interlocal Agreement shall commence as of the date first above written.

(B) The term shall continue so long as the Agency has Obligations outstanding which are secured by Pledged Revenues derived from Financing Agreements relating to any properties within the jurisdiction or boundaries of the Subscriber, or the Agency has projects for Qualified Improvements underway therein; the applicable provisions, authority and responsibility under this Agreement reasonably necessary to carry out the remaining aspects of the Program and responsibilities of Agency then underway, shall remain in effect and survive any termination until such time as those obligations and all associated remaining Program responsibilities are fulfilled (including, but not limited to, the collection of assessments in due course). Provided, however, the Agency's powers to be employed and exercised hereunder shall be non-exclusive, and the Subscriber is free to and reserves the right to enter into or otherwise commence another program for financing Qualified Improvements using non-ad valorem assessments either under the Supplemental Act or pursuant to its home rule powers.

(C) Notwithstanding subsection (B), Subscriber may terminate this Interlocal Agreement upon ninety (90) days written notice provided as required by Section 3.05. Provided, however, no termination of this Interlocal Agreement shall preclude the Agency from exercising any of its power or authority after any termination, including without limiting the generality of the foregoing that specifically associated with collection of any of its Obligations outstanding which are secured by pledged revenues derived from Financing Agreements relating to any properties within the jurisdiction or boundaries of the Subscriber. In the event the Agency's rights under this Interlocal Agreement to impose new non-ad valorem assessments shall ever end, then as of the effective date of the termination, all rights and obligations of the parties shall continue as specified in subsection (B) until such time as all Agency's Obligations, and all associated remaining Program responsibilities are fulfilled (including, but not limited to, the collection of Special Assessments in due course).

SECTION 3.04. AMENDMENTS AND WAIVERS. Except as otherwise provided herein, no amendment, supplement, modification or waiver of this Subscription Agreement shall be binding unless executed in writing by the Subscriber and Agency.

SECTION 3.05. NOTICES.

(A) All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when hand delivered (or confirmed electronic facsimile transmission) or mailed by registered or certified mail, postage prepaid, or sent by nationally recognized overnight courier (with delivery instructions for "next business day" service) to the parties at the following addresses:

Subscriber: Levy County
ATTN: County Coordinator
355 South Court Street (P.O. Box 310)
Bronson, Florida 32621

With a copy to: Levy County
ATTN: County Attorney
612 East Hathaway Avenue
Bronson, Florida 32621

Agency: Executive Director
Florida PACE Funding Agency
c/o City of Kissimmee
101 North Church Street, Fifth Floor
Kissimmee, Florida 34741

With a copy to: Program Counsel for the Florida PACE Funding Agency
P.O. Box 14043
Tallahassee, Florida 32317-4043

Any of the parties may, by notice in writing given to the other, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent. Any notice shall be deemed given as provided above.

SECTION 3.06. QUALITY CONTROL AND COMMUNICATION. For quality control purposes the Agency and Subscriber desire, and the Agency covenants to develop, implement and employ policies, systems and procedures which set or reflect industry standards; with such standards being reasonably expected to change and evolve over time. An ongoing positive and informal line of communication between staff and agents for the parties is encouraged. At any time, notwithstanding lack of default or lack of material breach hereunder, each party is encouraged to objectively and specifically communicate to the other in writing as provided for herein any concerns, suggestions or disapproval with performance, policies, systems or procedures being employed by each party concerning the funding and financing of Qualified Improvements. The Agency through its administrator, Executive Director, or a duly authorized designee, will promptly respond in writing to all such communications (reasonably within fifteen (15) days of receipt of any such written communication, but sooner if necessary)

from the Subscriber and follow-up accordingly; and, also promptly communicate any such response, follow-up, and all related communication to the Board of Directors for review. This paragraph shall not be construed as containing any obligation for the Subscriber to receive complaints or concerns about the Agency's performance, policies, systems, or procedures, and the Subscriber is requested to and specifically authorized to refer all such complaints or concerns directly to the Agency for a response.

SECTION 3.07. IMMUNITY; LIMITED LIABILITY.

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

(B) The Subscriber and Agency 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, that certain final judgment in *Fla. PACE Funding Agency v. State*, No. 2011-CA-1824 (Fla. 2d Cir. Ct. 2011), and this covenant of the parties hereto, the local governments who are either the incorporators, or members of the Agency, or any subsequently participating or subscribing local government shall not be held jointly liable for the torts of the officers or employees of the Agency, or any other tort attributable to the Agency, and that the Agency 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. The Subscriber and Agency acknowledge and agree that the Agency shall have all of the applicable privileges and immunities from liability and exemptions from laws, ordinances, rules and common law which apply to the municipalities and counties of the State.

(C) To the extent provided by law, the Agency agrees to indemnify, defend and hold harmless the Subscriber from any and all damages, claims, and liabilities arising from the gross negligence or intentional misconduct of the Agency relating to operation of the Program. Nothing in this Subscription Agreement is intended to inure to the benefit of any third-party or for the purpose of allowing any claim, which would otherwise be barred under the doctrine of sovereign immunity or by operation of law.

(D) The Agency presents an independent local government funding and financing instrumentality. Neither the Subscriber, nor the local governments who are either or both the incorporators or subscribers of the Agency, nor any subsequently subscribing or participating local government in the affairs of the Agency, shall in any manner be obligated to pay any debts, obligations or liabilities arising as a result of any actions of the Agency, the Board of Directors or any other agents, employees, officers, officials, contractors, consultants, or volunteers of the Agency, except to the extent otherwise mutually and expressly agreed upon in writing, and neither the Agency, the Board of Directors or any other agents, employees, officers, officials, contractors, consultants, or volunteers of the Agency have any authority or power to otherwise obligate either the Subscriber, the local governments who are either or both the

incorporators or members of the Agency, nor any subsequently subscribing or participating local government in the affairs of the Agency in any manner.

SECTION 3.08. BINDING EFFECT. This Subscription Agreement shall be binding upon the parties, their respective successors and assigns and shall inure to the benefit of the parties, their respective successors and assigns.

SECTION 3.09. SEVERABILITY In the event any provision of this Subscription Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

SECTION 3.10. EXECUTION IN COUNTERPARTS. This Subscription Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 3.11. APPLICABLE LAW.

(A) A breach of this Subscription Agreement shall mean a material failure to comply with the Supplemental Act or any covenants or provisions of this Agreement. If any party breaches any obligation herein, then, upon receipt of written notice by the non-breaching party, the breaching party shall proceed diligently and in good faith to take all reasonable actions to cure such breach, and shall continue to take all such actions until such breach is cured, or be subject to termination for cause.

(B) At all times the parties may proceed at law or in equity to enforce their rights under this Agreement using all available remedies.

(C) The venue of any legal or equitable action that arises out of or relates to this Subscription Agreement shall be the appropriate state court. In any such action, Florida law shall apply and the parties waive any right to jury trial.

SECTION 3.12. ENTIRE AGREEMENT. This Subscription Agreement constitutes the entire agreement among the parties pertaining to the subject matter hereof, and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions of the parties, whether oral or written, and there are no warranties, representations or other agreements among the parties in connection with the subject matter hereof, except as specifically set forth herein.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the undersigned have caused this Non-Exclusive Interlocal Subscription Agreement to be duly executed and entered into as of the date first above written.

**BOARD OF COUNTY
COMMISSIONERS, LEVY COUNTY**

(SEAL)

By: _____
John Meeks
Chair

Attest:

Approved as to form:

Danny J. Shipp, Clerk of Court

Anne Bast Brown, County Attorney

IN WITNESS WHEREOF, the undersigned have caused this Non-Exclusive Interlocal Subscription Agreement to be duly executed and entered into as of the date first above written.

THE FLORIDA PACE FUNDING AGENCY

(SEAL)

By: _____
Michael H. Steigerwald, Executive Director

ATTEST:

Donald T. Smallwood, Assistant Secretary

**ARTICLE II
SUBSCRIPTION**

SECTION 2.01. AUTHORITY.

(A) The execution hereof has been duly authorized by the resolution of the governing bodies of each party hereto.

(B) The Agency by this Subscription Agreement is approved to act to provide its lawful services, and lawfully conduct its affairs, within Levy County.

(C) This Subscription Agreement may be amended only by written amendment hereto.

SECTION 2.02. CREATION OF STATE, COUNTY OR MUNICIPAL DEBTS PROHIBITED.

The Agency shall not be empowered or authorized in any manner to create a debt as against the State, any county, or any municipality, and may not pledge the full faith and credit of the State, any county, or any municipality. All revenue bonds or debt obligations of the Agency shall contain on the face thereof a statement to the effect that the State, any county or any municipality shall not be obligated to pay the same or the interest and that they are only payable from Agency revenues or the portion thereof for which they are issued and that neither the full faith and credit nor the taxing power of the State or of any political subdivision thereof is pledged to the payment of the principal of or the interest on such bonds. The issuance of revenue or refunding bonds under the provisions of law, the Charter Agreement, or this Subscription Agreement shall not directly or indirectly or contingently obligate the State, or any county or municipality to levy or to pledge any form of ad valorem taxation or other county or municipal revenues or to make any appropriation for their payment.

SECTION 2.03. ADOPTION OF RATES, FEES AND CHARGES.

(A) The Board of Directors necessarily must adopt or authorize from time to time by resolution such rates, fees or other charges for the provision of the services of the Agency to be paid by the Property Owner pursuant to a Financing Agreement described in the Supplemental Act.

(B) Such rates, fees and charges shall be adopted and revised so as to provide moneys, which, with other funds available for such purposes, shall be at least sufficient at all times to pay the expenses of administering, managing, and providing for the services and administration of the activities of the Agency, to pay costs and expenses provided for by law or the Charter Agreement and the Financing Documents, and to pay the principal and interest on the Obligations as the same shall become due and reserves therefore, and to provide for necessary administration and reasonable margin of safety over and above the total amount of such payments. Notwithstanding any other provision in the Charter Agreement or this Subscription Agreement, such rates, fees and charges shall always be sufficient to comply fully with any covenants contained in the Financing Documents.

**REGULAR MEETING
LEVY COUNTY BOARD OF COUNTY COMMISSIONERS
APRIL 18, 2017**

The Regular Meeting of the Board of Levy County Commissioners was held on April 18, 2017 at 9:00 A.M. in the Levy County Board of County Commissioners meeting room with the following Commissioners present:

Chairman John Meeks
Comm. Rock Meeks
Comm. Lilly Rooks
Comm. Matt Brooks
Comm. Mike Joyner

Also present were:

County Attorney – Anne Bast Brown
County Coordinator – Wilbur Dean
Clerk of Court – Danny J. Shipp

Chairman John Meeks called the Meeting to order at 9:00 A.M. Comm. gave the invocation, followed by the Pledge of Allegiance.

EXPENDITURES

Comm. Rooks made a motion to approve the following expenditures presented for payment. Second was made by Comm. Brooks and the MOTION CARRIES.

CHECK NUMBER	127070-127201
FUND	AMOUNT
GENERAL REVENUE	249,242.01
ROAD	38,710.38
SHIP	14,800.00
MOSQUITO CONTROL	91.38
TRANSPORTATION	14,422.63
COURT FACILITIES	15.00
EMS	28,154.52
FIRE	112,238.95
TOURIST DEVELOPMENT	6,465.18
UTILITIES	125.58
ADD COURT COSTS	702.98
IMPACT FEES - RD DIST II	1,096.75
LANDFILL	81,243.69
TOTAL	\$ 547,309.05

MINUTES

The minutes for the Regular Board Meetings held on March 7, 2017 and March 21, 2017 were presented for approval.

Comm. Rooks made a motion to approve the minutes for the Regular Board Meeting held on March 7, 2017 as presented. Second was made by Comm. Brooks and the MOTION CARRIES.

Comm. Brooks made a motion to approve the minutes for the Regular Board Meeting held on March 21, 2017 as presented. Second was made by Comm. Rock Meeks and the MOTION CARRIES.

PUBLIC COMMENT

Linda Cooper spoke to the Board requesting they consider placing manned trash collection sites at various locations throughout the county due to excessive illegal dumping.

LEVY COUNTY SHERIFF'S DEPARTMENT

Sheriff McCallum requested Board approval of Resolution 2017-0013 and amend the Final Budget for Fiscal Year 2016/2017 reflecting a transfer to Law Enforcement in the amount of \$16,515. This would return funds to the Sheriff's budget from Crisis Intervention Training previously returned to the Board.

Comm. Joyner made a motion to approve Resolution 2017-0013 as requested. Second was made by Comm. Rock. Meeks and the MOTION CARRIES.

Sheriff McCallum then gave an update regarding a home invasion which happened yesterday in Rosewood. He stated the Sheriff's Department is searching for two (2) fugitives which were last known to be in the area of CR336 and CR330.

DEPARTMENT REPORTS

COUNTY COORDINATOR

A. Wilbur Dean requested Board approval of Memorandum of Agreement between the Levy County Board of County Commissioners and the Florida Fish and Wildlife Conservation Commission for the use of the Levy County 4-H Extension Office classroom and shooting ranges for a Hunter Safety Program.

Comm. Joyner made a motion to approve the Memorandum of Agreement as presented. Second was made by Comm. Rock Meeks and the MOTION CARRIES.

B. Wilbur Dean requested a motion to adopt Emergency Declaration 2017-014 and to rescind Emergency Declaration 2017-011.

Comm. Rock Meeks made a motion to approve Emergency Declaration 2017-014 and to rescind Emergency Declaration 2017-011 as requested. Second was made by Comm. Rooks and the MOTION CARRIES.

NON-AGENDA ITEM/1

Comm. Rock Meeks made a motion to hear two (2) non-agenda items as requested by Mr. Dean. Second was made by Comm. Joyner and the MOTION CARRIES.

Mr. Dean requested Board approval of Emergency Declaration 2017-017.

Comm. Rock Meeks made a motion to approve Emergency Declaration 2017-017 as requested. Second was made by Comm. Brooks and the MOTION CARRIES.

NON-AGENDA ITEM/2

Mr. Dean requested Board approval to waive Landfill tipping fees for the Town of Otter Creek for their "clean-up" day coming up on

Comm. Joyner made a motion to waive the tipping fees for the Town of Otter Creek as requested. Second was made by Comm. Rooks and the MOTION CARRIES.

ANIMAL SERVICES

David Weatherford, Director presented a proposal for Board approval to start a low cost spay and neuter program for Levy County residents. This will be available to citizens of Levy County who are of retirement age (older than 62 years) or low income status. There will be a \$10 non-refundable application fee which will be applied to the cost of surgery. Fees collected as a part of this program will be submitted to the Levy County Finance Department and re-applied to the Animal Services budget. The fee schedule is listed below:

Dog spays (up to 75 lbs.)	\$55	(Pregnant dogs add \$10)
Dog neuters (up to 75 lbs.)	\$40	
Cat spays	\$40	(Pregnant cats add \$10)
Cat neuters	\$25	

Flea control (Capstar) less than 25 lbs. add \$3
Flea control (Capstar) over 25 lbs. add \$6

Members of the audience speaking regarding this item were: Bob Eckels, Renate Cannon, Linda Cooper and Dana Sheffield.

Comm. Rooks made a motion to approve the Low Cost Spay and Neuter Program as presented. Second was made by Comm. Rock Meeks and the MOTION CARRIES.

PROCUREMENT DEPARTMENT

Lee Williams, Director requested Board approval of the following Engineering Agreements:

DRMP	Passero Associates, LLC
Amec Foster Wheeler	Jones Edmunds & Associates, Inc.
Mittauer & Associates, Inc.	CHW
Dewberry/Preble-Rish	

Comm. Rooks made a motion to approve the Engineering Agreements as requested. Second was made by Comm. Joyner and the MOTION CARRIES.

TRANSIT

A. Wilbur Dean requested Board approval on behalf of Connie Conley to transfer three (3) busses to Suwannee Valley Transit Authority in Live Oak and accept a check in the amount of \$3,000 for busses.

Comm. Rooks made a motion to approve the transfer of three (3) busses to Suwannee Valley Transit Authority and to accept their check in the amount of \$3,000 as requested. Second was made by Comm. Joyner and the MOTION CARRIES.

B. Mr. Dean requested Board approval of amendment #1 to the Shirley Conroy Rural Area Capital Assistance Program 2017 Grant Application for additional funding in the amount of \$3,796.

Comm. Rock Meeks made a motion to approve amendment #1 to the Shirley Conroy Rural Area Capital Assistance Program 2017 Grant Application as requested. Second was made by Comm. Brooks and the MOTION CARRIES.

TOURIST DEVELOPMENT

Carol McQueen, Director requested Board approval of Resolution 2017-0012 amending the Final Budget for Fiscal Year 2016-2017. This will allow grant funds in the amount of \$19,500 from the Conservation Fund to be added to the Tourist Development budget.

Comm. Rooks made a motion to approve Resolution 2017-0012 as requested. Second was made by Comm. Brooks and the MOTION CARRIES.

Mrs. McQueen informed the Board the Big Bend Shellfish Trail maps should be delivered today.

DEPARTMENT OF PUBLIC SAFETY

Mitch Harrell, Public Safety Director requested Board approval and the Chairman's signature on the Service Agreement and Amendment to General Terms with Physio Control, Inc. for maintenance and repairs on 10 AED's and 9 heart monitors. The total amount is \$17,122.42.

Comm. Joyner made a motion to approve with the Chairman's signature the Service Agreement and Amendment to General Terms with Physio Control, Inc. as requested. Second was made by Comm. Brooks and the MOTION CARRIES.

ROAD DEPARTMENT

Alice LaLonde, Office Manager requested Board approval to add NE 107th Terrace (LCR 189) to the paving list. The road is .32 miles long beginning at NE 109 Street and ending at NE 112 Street in University Oaks.

Comm. Rooks made a motion to add NE 107th Terrace (LCR 189) to the paving list as requested. Second was made by Comm. Rock Meeks and the MOTION CARRIES.

Comm. John Meeks requested the Paving list be periodically reviewed.

NON-AGENDA ITEM/ROAD DEPARTMENT

Comm. Brooks made a motion to hear a non-agenda item. Second was made by Comm. Rock Meeks and the MOTION CARRIES.

Mrs. LaLonde requested Board approval of Resolution 2017-016 ratifying the execution of a Railroad Reimbursement Agreement with the Florida Department of Transportation and Florida Northern Railroad for the installation of grade crossing traffic control devices and future maintenance and adjustment of the devices at CR335.

COMMISSIONERS' REPORTS

Comm. Joyner announced there will be a Veteran's Trail Ride this weekend beginning at Tidewater (CR 336 and CR 337) put together by the Florida Department of Agriculture.

Comm. Rooks stated she visited Devil's Den and reported it is a place she will visit again. She announced the Wild Hog Canoe and Kayak Race is this Saturday which benefits LARC.

Comm. Rooks reported she had visited the Bronson Library yesterday and participated in the "Rock Painting" project.

Comm. Brooks reported of his recent attendance of Certified County Commissioner Training in Tallahassee. Comm. Brooks stated another place to visit here in Levy County is Cedar Lakes and Gardens, which is next door to Devil's Den.

Comm. Brooks announced an upcoming event between Bronson and Williston called "Blue's Fest". This will take place at the Red, White, and Blue's blueberry farm May 6th and 7th.

Comm. Rock Meeks reported he had recently visited Blue Grotto and was amazed at the improvements which had been done since his last visit years ago.

Comm. Rock Meeks spoke of HB 17 and HB 10.

Comm. John Meeks gave an update to everyone of Legislative Days which he had recently attended in Tallahassee.

Comm. John Meeks reported of a recently attended meeting with FDOT regarding the I-75 expansion issue.

Comm. John Meeks announced there will be a birthday party for Bill Brown and fundraiser for The Children's Table coming up on

Carol McQueen announced the Big Bend Shellfish Trail maps had been delivered and stated they are now available for anyone interested.

The meeting recessed at 10:45 A.M.

COUNTY ATTORNEY

Anne Bast Brown, County Attorney

- A. Conduct Executive Session to discuss settlement or strategy related to litigation expenditures in American Atheists, Inc. and Charles Ray Sparrow v. Levy County. The Executive Session is scheduled to be held Tuesday, April 18, 2017, at 11:00 a.m. at the Levy County Emergency Management Department Conference Room.

The meeting reconvened at 2:30 P.M.

- B. Atty. Brown requested the Board approve or deny any proposed Settlement Agreement in the above-referenced litigation, or take other action on the litigation as the Board determines is appropriate.

Comm. Joyner made a motion to deny the proposed Settlement Agreement as presented. Second was made by Comm. Rooks and the MOTION CARRIES. Comm. Brooks voted NO.

THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COMMISSION, THE MEETING ADJOURNED AT 2:33 P.M.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
LEVY COUNTY, FL

Clerk of Court, Danny J. Shipp

Chairman, John Meeks