

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, PROVIDING FOR VOLUNTARY IMPROVEMENTS TO REAL PROPERTY, AS AUTHORIZED BY THE LEGISLATURE; RECOGNIZING AN ALTERNATIVE MECHANISM FOR THE FINANCING OF ENERGY CONSERVATION AND EFFICIENCY IMPROVEMENTS, RENEWABLE ENERGY IMPROVEMENTS, AND WIND RESISTANCE IMPROVEMENTS; AUTHORIZING THE EXECUTION OF A NON-EXCLUSIVE INTERLOCAL AGREEMENT WITH THE FLORIDA PACE FUNDING AGENCY AND DIRECTING CITY 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**, 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 PACE Funding Agency (the "Agency"), is a separate legal entity and distinct unit of local government, and was established by separate interlocal 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"), which amended and restated interlocal agreement was recorded with the Osceola County Clerk of Court at ORB 5132, Page 2575 on February 20, 2017; and

**WHEREAS**, the expressed mission of the Agency is to undertake to provide an efficient and scalable statewide platform in Florida, to assist interested private property owners with the funding and financing of energy conservation, renewable energy, and wind-resistance improvements to achieve the public purposes and compelling state interest articulated in Section 163.08(1), Florida Statutes; and

**WHEREAS**, the Agency has presented a binding Final Judgment, recorded at ORB 28473, Page 1478 with the Clerk of Courts for Palm Beach County, Florida, in favor of Agency representations which provides, among other things, that recognizing the Agency's Program serves interested property owners, advances the local economy, achieves a compelling state interest, and shall not in any manner obligate the City of Delray Beach (the "City") to pay any debts, obligations or liabilities arising as result of any actions of the Agency, or its officials or agents; and, that the Agency has no authority or power to independently obligate the City or the City's treasury whatsoever; and

**WHEREAS**, the City recognizes that the Agency's non-exclusive Program presents a direct and immediate means to non-exclusively implement and advance positive local economic

activity, job creation, energy efficiency, renewable energy and wind resistant activities without cost to the City taxpayer; and

**WHEREAS**, the Agency asks for no money, credit or staff assistance, it must abide by general law, and welcomes fair competition to serve; accordingly, it is reasonable and in the interest of the health, safety, and welfare of the City and its inhabitants and taxpayers that the City recognize and encourage the availability of the Agency's Program in the manner authorized by law; and

**WHEREAS**, the City Commission of the City of Delray Beach deems it to be in the interest of the citizens, residents, and property owners of the City to direct and authorize the appropriate City officials to execute an interlocal agreement between the Florida PACE Funding Agency and the City, in a considered effort to provide an alternative, supplemental, and non-exclusive means to better achieve, *inter alia*, immediate and local economic development, commerce and job creation, as well as accomplish the compelling state interest and public purposes described in the Supplemental Act.

**NOW THEREFORE BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, 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. APPROVAL OF NON-EXCLUSIVE INTERLOCAL AGREEMENT.** The Non-Exclusive Interlocal Agreement ("Agreement"), a copy of which is attached hereto as Exhibit "A," and incorporated herein, is hereby approved. The Mayor is hereby authorized and

directed to execute and have this this Agreement recorded on behalf of the City. The City Manager or his/her designee, City Attorney, City 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 subject interlocal agreement.

**SECTION 3. CONFLICTS.** All resolutions or parts of resolutions on in conflict herewith be, and the same are hereby repealed to the extent of such conflict.

**SECTION 4. SEVERABILITY.** 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.

[Remainder of page intentionally left blank.]

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

**PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_ 2017.

**CITY OF DELRAY BEACH,**

By: \_\_\_\_\_  
Cary Glickstein, Mayor

(SEAL)

ATTEST:

\_\_\_\_\_  
Katerri Johnson, CMC, City Clerk

Approved as to form and legality:

\_\_\_\_\_  
R. Max Lohman, City Attorney

*Resolution authorizing execution of  
Non-exclusive Interlocal Agreement  
with. Florida PACE Funding Agency*

**EXHIBIT A**

**NON-EXCLUSIVE INTERLOCAL AGREEMENT**