PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: December 8, 2020		() Consent ()Workshop	(X) Regular () Public Hearing
Department Submitted By: Submitted For:	County Administration Office of Resilience		
	<u>I. EXECUT</u>	VE BRIEF	
between Enhance	Staff recommends motid d PACE Finance, LLC, as d Palm Beach County, Flo	an Administrator	
Assessed Clean E efficiency, renewal commercial proper bills. The County agencies/authoritic improvements. Disfrom all third party Resiliency and Er County Administration September 10, seeks to add Enh commercial project agreement acknow Enhanced agrees Countywide (RB)	Board of County Commissionergy (PACE) program for able energy, and wind restricts by levying non-ad vary enters into interlocal es/districts (Districts) for the stricts are then required to administrators. In the ILA learnergy (FRED) PACE districts of FRED. The Board PACE Finance, Lucts, thus requiring an indevolved enterging and hold the County of the County and hold the County (PACE) and hold t	or third parties to presistant improvem lorem assessments agreements (ILA hem to provide the promptly obtain included the promptly obtain included the parties of the property and parties at hird-party adminitional county harmless as	ents for residential and son property owners' tax s) with multiple PACE e financing for qualifying demnification agreements the BCC authorized the fication agreements with such delegated authority in this item because FRED a PACE administrator for nent. This indemnification istrator for FRED and that Enhanced assists FRED.
	Justification: On April 4, 2017-012). The Office of Irdinance.		
Attachment:			
1. Indemnifica	ation Agreement		
Recommended b	oy: <u>Mately</u> Environmental Analys	<u> </u>	10/26/2000 Date
Approved by:	Poly		11/15/20
	Assistant County Adn	ninistrator	Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2021	2022	2023	2024	2025			
Capital Expenditures	0							
Operating Costs	0							
External Revenues	0							
Program Income (Count	y) _0				-			
In-Kind Match (County)	0							
NET FISCAL IMPACT	0				-			
# ADDITIONAL FTE POSITIONS (Cumulative	e) _0							
Is Item Included in Curre	ent Budget?	Yes _	n/a	No <u>n/a</u>				
Does this item include t	he use of fed	eral funds?	Yes	No _X				
Budget Account No.: n/a								
Fund Department _	Unit	_Object	_ Program					
B. Recommended Sources of Funds/Summary of Fiscal Impact:								
C. Department Fiscal Review								
III. REVIEW COMMENTS								
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B. Legal Suffi	ciency:		11-17-12	101W	,			
Assistant (County Attorn	ney	18/20					
C. Other Depa	artment Revie	ew:						
Departmen	t Director							

AGREEMENT BETWEEN ENHANCED PACE FINANCE, LLC, AS AN ADMINISTRATOR OF THE FLORIDA RESILIENCY AND ENERGY DISTRICT, AND PALM BEACH COUNTY

This Agreement (the "Agreement") is entered into this _____day of_____, 2020 by and between Enhanced PACE Finance, LLC ("Enhanced"), as the administrator of the Florida Resiliency and Energy District ("FRED"), and Palm Beach County, a political subdivision of the State of Florida ("Palm Beach County") (collectively, the "Parties").

WHEREAS, pursuant to Ordinance 2017-012 adopted by the Palm Beach County Board of County Commissioners on April 4, 2017 (the "PACE Program Ordinance"), this Agreement shall be applicable within the unincorporated areas of Palm Beach County, and in all municipalities that have not adopted an ordinance governing any or all of the subject matter of the PACE Program Ordinance, regardless of the time of passage of the municipal ordinance ("participating municipalities"); and

WHEREAS, Palm Beach County and the FRED have entered into that certain Interlocal Agreement dated August 15th, 2017 ("the Interlocal Agreement") which authorizes FRED to operate within Palm Beach County for the purposes of providing a Property Assessed Clean Energy (PACE) program; and

WHEREAS, Enhanced PACE Finance, LLC is a third party administrator for the FRED, and Enhanced will be operating on behalf of the FRED within Palm Beach County; and

WHEREAS, Enhanced PACE Finance, LLC has agreed to provide Palm Beach County with a separate indemnification agreement for the benefit of Palm Beach County and participating municipalities,

NOW, THEREFORE, the Parties hereby agree as follows:

- 1. The foregoing recitals are incorporated into this Agreement and approved.
- 2. To the extent permitted by applicable law, Enhanced PACE Finance, LLC shall indemnify and hold harmless Palm Beach County and participating municipalities and their officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which Palm Beach County and participating municipalities or their officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of action or proceedings of any kind or nature arising out of, relating to or resulting from the performance of the Interlocal Agreement by Enhanced PACE Finance, LLC or its employees, agents, servants, partners, principals, administrators, subcontractors, or agents. Enhanced PACE Finance, LLC shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or losses in

connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of Palm Beach County and participating municipalities, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. Enhanced PACE Finance, LLC expressly understands and agrees that any insurance protection shall in no way limit the responsibility to indemnify, keep and save harmless and defend Palm Beach County and participating municipalities or their officers, employees, agents and instrumentalities as herein provided.

3. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. The parties agree that the exclusive venue for any lawsuit arising from, related to, or in conjunction with this Agreement shall be in the state courts of the Fifteenth Judicial Circuit in and for Palm Beach County, Florida, the United States District Court for the Southern District of Florida or United States Bankruptcy Court for the Southern District of Florida, as appropriate.

	EREOF, the Parties hereto have made an	d executed
this Agreement on this	_day of, 2020.	
APPROVED AS TO FORM AND LEGAL SUFFICIENCY: By: Scott Stone, Assistant County Attorney Date:	BOARD OF COUNTY COMMISSION PALM BEACH COUNTY By: Mayor Date	ERS OF
,	ATTEST:	
	By: Sharon R. Bock, Clerk and Comptroller	Date
APPROVED AS TO TERMS TO CONDITIONS By:	Enhanced PACE Finance, LLC By: Mr R. Malachy Name: Sham Melachy Title: Vice Product	13/23/20 Date