

ITEM #9

(Memo & Replacement Exhibit #1)

ADDITIONAL MATERIAL

REGULAR MEETING

MARCH 21, 2024

SUBMITTED AT THE REQUEST OF

PUBLIC WORKS DEPARTMENT



Public Works Department

WATER AND WASTEWATER SERVICES

2555 West Copans Road • Pompano Beach, Florida 33069 • 954-831-0702

MEMORANDUM

DATE: March 12, 2024

TO: Board of County Commissioners

THROUGH: Monica Cepero, County Administrator

FROM: Alan Garcia, P.E., Director
Water and Wastewater Services

**Alan
Garcia**

Digitally signed by
Alan Garcia
Date: 2024.03.12
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SUBJECT: Additional Materials for South Florida Water Management District Grant

The following information is being provided as a result of inquiries made after the publication of the Commission Meeting Agenda and prior to individual meetings.

The Requested Action and Motion have been modified as follows:

MOTION TO APPROVE Grant Agreement between Broward County and the South Florida Water Management District to reimburse Broward County for costs up to \$25,500 related to the Water and Wastewater Services Toilet Replacement Credit Program, **with a grant term commencing on October 1, 2022, and ending on October 31, 2024** for reimbursement purposes; authorizing the Mayor and Clerk to execute same; and authorizing the County Administrator to take all necessary administrative and budgetary actions related to the Grant Agreement. (Commission Districts 2, 4, 5, 6, 7, 8 and 9)

Below is additional background information on the WWS Toilet Replacement Credit Program and the related application process.

- On February 6, 2024, the Board adopted a resolution pertaining to the WWS Toilet Replacement Credit Program which increased the credit amount to \$125 from \$100. If approved, the Grant Amendment (Exhibit 1) will have a grant term commencing on October 1, 2022, and ending on October 31, 2024, for reimbursement purposes. The grant term will allow Broward County to be reimbursed for all toilet credits issued from the grant commencement date of October 1, 2022, to the grant expiration date of October 31, 2024.
- Under the WWS Toilet Credit Program, WWS will provide a \$125 credit applied to the bill of a WWS residential water customer who replaces an existing toilet in his/her home with a new USEPA WaterSense ®-certified unit. Each property is limited to two (2) \$125 credits per residential premise. Replacing the existing, older, low-efficiency toilet with an USEPA

Broward County Board of County Commissioners

Mark D. Bogen • Lamar P. Fisher • Beam Furr • Steve Geller • Robert McKinzie • Nan H. Rich • Hazelle P. Rogers • Tim Ryan • Michael Udine
www.broward.org

WaterSense®-certified model could save approximately 11,000 to 18,000 gallons per year per household.

- WWS Customers must submit a fully completed, signed, and dated application by the person authorized to assume responsibility for WWS residential services and charges for the premise, produce a government photographic identification (ID) of person authorized to apply for the residential account toilet credit and submit verification of purchase and installation of a new USEPA WaterSense®-certified toilet (e.g. copy of dated, paid invoice on vendor or plumber letterhead identifying purchase in full of WaterSense® - certified Toilet(s) units. Toilets with USEPA WaterSense® certification are available at most local home improvement stores.

Additionally, a copy of the grant signed off by the County Attorney's Office is attached.

Should you have any questions, please contact Alan Garcia, Water and Wastewater Services Director, regarding questions or additional information.

C: Trevor M.A. Fisher, P.E., MBA, Director, Public Works Department



**SOUTH FLORIDA WATER MANAGEMENT DISTRICT
WATER PROTECTION AND SUSTAINABILITY PROGRAM
Water Conservation (WC)**

<p>Recipient: Broward County Board of County Commissioners</p> <p>Recipient's Project Manager: Kevin Carter</p> <p>Address: Water and Wastewater Services 2225 West Copans Rd. Pompano Beach 33069</p> <p>Telephone No: 954-831-0718</p> <p>Email: kcarter@broward.org</p>	<p>Agreement Number: 4600004826</p> <p>Governing Board Approval Date: May 12, 2022</p> <p>District Funding Amount: \$25,500</p> <p>Contract Term: October 1, 2022–October 31, 2024*</p> <p>* All deliverables are due by September 30, 2024</p>
<p>SFWMD Project Manager: Jim Harmon</p> <p>Telephone No.: (561) 682-6777</p> <p>E-mail Address: jharmon@sfwmd.gov</p> <p>Contract Specialist: Sharman Rose</p> <p>Telephone No.: (561) 682-2167</p> <p>Fax No.: (561) 682-5624</p> <p>E-mail Address: shrose@sfwmd.gov</p> <p>Address: 3301 Gun Club Road West Palm Beach, FL 33406</p>	
<p>Insurance: Not Applicable</p>	
<p>Federal Employer Identification Number: 59-6000531</p>	
<p>Project Title: WC-SFDEP-75 – High Efficiency Toilet Replacement Credit Program</p>	

This **Agreement** is entered into between “the Parties,” the South Florida Water Management **District, (District)**, and the undersigned party, hereinafter referred to as the “**Recipient**.” The **Recipient** warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms and conditions of this **Agreement**, and shall abide by all legal, financial and reporting requirements, such as matching funds and final reports for all funding received by the **Recipient** from the **District**.

ARTICLE 1 – PROJECT

- 1.1 The **Recipient** shall, to the satisfaction of the **District**, fully and timely construct and perform all work items described in the “Statement of Work,” hereinafter referred to as the “Project”, attached hereto as Exhibit “A”, and made a part of this **Agreement**.
- 1.2 As part of the deliverables to be provided by the **Recipient** under this **Agreement**, the **Recipient** shall substantiate, in whatever forum reasonably requested by the **District**, any supporting documentation utilized as a basis for payment by the **District**. This paragraph shall survive the expiration or termination of this **Agreement**.
- 1.3 Attached to this **Agreement** are the following exhibits, which are incorporated herein:

Exhibit A	Statement of Work
Exhibit B	Payment and Deliverable Schedule
Exhibit C	Quarterly Status Report
Exhibit D	Final Project Summary Report
Exhibit E	Federal/State Appropriations
Exhibit F	Cost Breakdown sheet(s)

ARTICLE 2 – TERM OF THE AGREEMENT

- 2.1 The period of performance of this **Agreement** shall be the dates noted on the first page of this **Agreement**.
- 2.2 The Parties agree that time is of the essence in the performance of each and every obligation under this **Agreement**.

ARTICLE 3 – COMPENSATION / CONSIDERATION

- 3.1 As consideration for the Project required by this **Agreement**, the **District** shall pay the **Recipient** the funding amount as specified on the first page of this **Agreement**. Such amount is a not-to-exceed amount and therefore, no additional consideration will be authorized. The **Recipient** shall provide at least fifty percent (50%) or more of the Project’s total actual cost or the percentage set forth in the Payment and Deliverable Schedule (Exhibit “B”). In the event the project scope is achieved to 100 percent (100%) completion, as outlined in the Statement of Work, and total actual project costs are below the estimated total project cost, the **Recipient** may be eligible to receive up to the full award amount in the District’s sole discretion, as long as the minimum fifty percent (50%) match of the total actual project cost is met by the **Recipient**. Payment will be made by the **District** for work authorized and

completed between October 1, 2022 and September 30, 2024. The **District** will not reimburse the **Recipient** for work that commences prior to the start of the **Agreement** or for work completed after September 30, 2024. The **Recipient** is responsible for any additional funds through either local revenues, grants, other appropriations, and/or other funding sources.

- 3.2 The **Recipient** assumes sole responsibility for all work, which is performed pursuant to Exhibit “A”. By providing funding hereunder, the **District** does not make any warranty, guaranty or any representation whatsoever regarding any of the work performed hereunder, including but not limited to, the adequacy or sufficiency of all or any part of work described in Exhibit “A”.
- 3.3 The **Recipient** hereby agrees *not* to use **District** funding for any work associated with the research, design and permitting aspects of the Project. **District** funds shall only be used for the purchase and installation activities described in Exhibit “A”.
- 3.4 Notwithstanding any provisions of this **Agreement** to contrary, the **District** reserves the right, without financial or other penalty or obligation, to (1) cancel this contract and/or (2) reduce the amount of funding to be provided by the **District** pursuant to this **Agreement** in the event the **District** does not receive all or any state appropriation for the alternative water supplies program from the State of Florida as provided in the State’s 2021-2022 fiscal year budget.

ARTICLE 4 – FUNDING PAYMENTS AND REPORTING

- 4.1 The **Recipient** shall provide a completed Quarterly Status Report attached hereto as Exhibit “C” within ten (10) business days of the following due dates December 31, 2022, March 31, 2023, June 30, 2023, September 30, 2023, December 31, 2023, March 31, 2024, and June 30, 2024. Reports shall provide detail on the progress of the Project; amounts expended to date per task and outline any potential issues affecting Project completion or overall schedule. In addition, on or before September 30, 2024, the **Recipient** shall provide a completed Project Summary Final Report, attached hereto as Exhibit “D” and the Final Reimbursement Request Package. Concurrent with delivery of the final deliverable(s), the **Recipient** shall provide certification that all work has been completed in accordance with Exhibit “A” of this **Agreement**.
- 4.2 The **District** shall make payment to the **Recipient** upon completion and acceptance of the deliverable(s) as described in the “Payment and Deliverable Schedule”, and receipt of a fully documented reimbursement package. The **Recipient’s** reimbursement request package shall contain the backup documentation required (see Attachment 1 to Exhibit B). The request shall include but is not limited to:
 - **Recipient’s** invoice (include the **District’s Agreement** Number and Purchase Order number);
 - Signed certification letter on **Recipient’s** letterhead (signed by an authorized representative of the **Recipient**);

- Tasks completed per the **Agreement** (if all tasks finished, a statement indicating that the project is completed per the **Agreement**); and
- Vendor invoices/application for payment for the **District Project Manager(s)** to ascertain that each deliverable in the invoice has been substantially complete.
- **Recipient** proof of payment for all vendor invoices/applications for payment;
- If applicable, before, during, and after photos.

The **Recipient** shall submit the final reimbursement request and Exhibit “D” on or before September 30, 2024. Failure of the **Recipient** to follow the instructions set forth in the **Agreement** regarding a proper invoice and acceptable services and/or deliverables may result in an unavoidable delay in payment by the **District**.

- 4.3 **Recipient** shall send its invoices and attachments to APInvoice@sfwmd.gov and a copy to the **District Project Manager**. All invoices must reference the **Recipient’s** legal name as authorized to do business with the State of Florida; **District’s Agreement** Number and Purchase Order (PO) Number as specified on the cover page of the **Agreement**; a unique invoice number not previously used; date; a description of the services performed, and the amount to be invoiced. **Recipient** shall: 1) submit invoices using a pdf file at a resolution of no less than 300 dpi; 2) name the pdf file with the **Recipient’s** name, Agreement number, and the PO number; 3) provide all required attachments with the invoice file, and 4) include the PO number and Invoice number in the subject line of the email. If email or pdf filing is not possible, the **Recipient** must provide the above to the following address:

**South Florida Water Management District
Accounts Payable
P.O. Box 24682
West Palm Beach, FL 33416-4682**

- 4.4 **Recipient** must submit its invoices in compliance with the requirements of this subsection and all other terms and conditions of this **Agreement** in order to receive prompt payment by the **District** as described in the applicable sections of 218, Florida Statutes. **Recipient’s** failure to follow the instructions set forth in the **Agreement** regarding a proper invoice and acceptable services and/or deliverables may result in an unavoidable delay in payment by the **District**.

ARTICLE 5 – CONTRACT MANAGEMENT

- 5.1 The Parties shall direct all matters arising in connection with the performance of this **Agreement** to the attention of the **District Project Manager(s)** for attempted resolution or action. The **District Project Manager(s)** shall be responsible for overall coordination and oversight relating to the performance of this **Agreement**.
- 5.2 All notices under this **Agreement** shall be in writing and shall be deemed received if sent by electronic mail, overnight mail, or for cure and default notices, certified mail, to the respective addresses specified on the cover/signature page of the **Agreement**.

- 5.3 Should either Party change its address, written notice of such new address shall promptly be sent to the other Party.
- 5.4 All correspondence to the **District** under this **Agreement** shall reference the **District's Agreement** Number and PO Number.

ARTICLE 6 – TERMINATION / REMEDIES

- 6.1 It is the policy of the **District** to encourage good business practices by requiring the **Recipient** to materially perform in accordance with the terms and conditions of the **Agreement**. In accordance with Chapter 40E-7.215, Florida Administrative Code, “Material Breach” is defined as any substantial, unexcused non-performance by failing to perform an act that is an important part of the transaction or performing an act inconsistent with the terms and conditions of the **Agreement**.

If the **Recipient** materially fails to fulfill its obligations under this **Agreement**, the **District** will provide written notice of the deficiency by forwarding a Cure Notice citing the specific nature of the material breach. The **Recipient** shall have thirty (30) days to cure the breach. If the **Recipient** fails to cure the breach within the thirty (30) day period, the **District** shall issue a Termination for Default Notice. Once the **District** has notified the **Recipient** that it has materially breached its contract with the **District**, by sending a Termination for Default Notice, the **District's** Governing Board shall determine whether the **Recipient** should be suspended from doing future work with the **District**, and if so, for what period of time. Should the District terminate for default in accordance with this provision, the **District shall be entitled** to recover procurement costs in addition to all other remedies under law and/or equity.

- 6.2 The **District** may terminate this **Agreement** at any time for convenience upon thirty (30) calendar days prior written notice to the **Recipient**. The performance of work under this **Agreement** may be terminated by the **District** in accordance with this clause in whole, or from time to time in part, whenever the **District** shall determine that such termination is in the best interest of the **District**. Any such termination shall be effected by delivery of a Notice of Termination to the **Recipient**, specifying the extent to which performance of work under the **Agreement** is terminated, and the date upon which such termination becomes effective. In the event of termination, the **District** shall compensate the **Recipient** for all accepted work performed through the termination date. The **District** shall be relieved of any and all future obligations hereunder, including but not limited to, lost profits and consequential damages under this **Agreement**. The **District** may withhold all payments to the **Recipient** for such work until such time as the **District** determines the exact amount due to the **Recipient**.
- 6.3 In the event a dispute arises, which the **Project Managers** cannot resolve between themselves, the Parties shall have the option to submit to non-binding mediation. The mediator or mediators shall be impartial, shall be selected by the Parties, and the cost of the mediation shall be borne equally by the Parties. The mediation process shall be confidential to the extent permitted by law.

- 6.4 Notwithstanding anything in this **Agreement** to the contrary, the **District** reserves the right to terminate this **Agreement** immediately without notice in the event any of the representations contained in the **Recipient's** project application are found to be false or if the **Recipient** fails to complete the activities described in Exhibit "A", Statement of Work.

ARTICLE 7 – RECORDS RETENTION

- 7.1 The **Recipient** shall maintain records and the **District** shall have inspection and audit rights as follows:

- A. Maintenance of Records. The **Recipient** shall maintain all financial and non-financial records and reports directly or indirectly related to the negotiation or performance of this **Agreement**, including supporting documentation for any service rates, expenses, research or reports. Such records shall be maintained and made available for inspection for a period of five (5) years from completing performance and receiving final payment under this **Agreement**.
- B. Examination of Records. The **District** or designated agent shall have the right to examine in accordance with generally accepted governmental auditing standards all records directly or indirectly related to this **Agreement**. Such examination may be made only within five (5) years from the date of final payment under this **Agreement** and upon reasonable notice, time and place.
- C. Extended Availability of Records for Legal Disputes. In the event the **District** should become involved in a legal dispute with a third party arising from performance under this **Agreement**, the **Recipient** shall extend the period of maintenance for all records relating to this **Agreement** until the final disposition of the legal dispute. All such records shall be made readily available to the **District**.
- D. Periodic Audits. The **District** shall perform audits periodically to ensure funding objectives are being met.

7.2 Public Records

- A. **Compliance with Florida Laws:** **Recipient** must provide public access to all records concerning this Agreement according to applicable Florida laws including Chapter 119, Florida Statutes. If **Recipient** asserts any exemptions to Florida's public records laws, **Recipient** has the burden of establishing and defending the exemption. **Recipient's** failure to comply with this section is a breach of this **Agreement**.
- B. **Recordkeeping and Public Access:** Under the applicable sections of Chapter 119, Florida Statutes, a request to inspect or copy public records relating to a **District** contract for services must be made directly to the **District**. In addition, **Recipient** must: (1) keep and maintain public records required by the **District** in order to perform the service; (2) upon request from the **District's** custodian of public records, provide the **District** with a copy of the requested records or allow the records to be inspected

or copied within a reasonable time at a cost that does not exceed the cost provided by law; (3) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the **Agreement** term and following completion of the **Agreement** if the **Recipient** does not transfer the records to the **District**; and (4) transfer, at no cost, to the **District**, all public records in possession of the **Recipient** or keep and maintain public records required by the **District** to perform the service. If the **Recipient** transfers all public records to the **District** upon completion of the **Agreement**, the **Recipient** shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the **Recipient** keeps and maintains public records upon completion of the **Agreement**, the **Recipient** shall meet all applicable requirements for retaining the public records. All records stored electronically must be provided to the **District** upon request from the **District's** custodian of public records, in a format that is compatible with the information technology systems of the **District**. At the conclusion of the **Agreement** with the **District**, **Recipient** shall provide all applicable records associated with this **Agreement** on electronic media (USB flash drive).

- C. **IF THE RECIPIENT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE RECIPIENT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT TELEPHONE NUMBER (561) 682-2729, EMAIL ADDRESS PUBLICRECORDS@SFWMD.GOV AND MAILING ADDRESS: 3301 GUN CLUB ROAD, WEST PALM BEACH, FL 33406.**

ARTICLE 8 – STANDARDS OF COMPLIANCE

- 8.1 The **Recipient**, its employees, subcontractors or assigns, shall comply with all applicable federal, state, local laws, regulations and requirements relating to the performance of this **Agreement**. The **District** undertakes no duty to ensure such compliance, but will attempt to advise the **Recipient**, upon request, as to any such laws of which it has present knowledge.
- 8.2 The laws of the State of Florida shall govern all aspects of this Contract. The exclusive venue for any dispute(s) arising out of or related to this Contract shall be in a court of competent jurisdiction located in Palm Beach County, Florida.
- 8.3 Under the applicable section of Chapter 216, Florida Statutes, the **Recipient** is prohibited from the expenditure of any funds under this **Agreement** to lobby the Legislature, the judicial branch or another state agency.
- 8.4 The **Recipient** has obtained, at its sole expense, all necessary licenses, authorizations and permits from the appropriate private party or federal, state, municipal or local agency, and other governmental approvals, prior to commencing performance of this **Agreement**. A delay

in obtaining permits shall not give rise to a claim by the **Recipient** for additional compensation. If the **Recipient** is unable to obtain all necessary permits in a timely manner, either party may elect to terminate this **Agreement**, each party to bear its own costs, notwithstanding other provisions of this **Agreement** to the contrary. The **Recipient** agrees to comply with the terms and conditions of all permits.

- 8.5 The **Recipient** hereby assures that no person shall be excluded on the grounds of race, color, creed, national origin, handicap, age or sex, from participation in, denied the benefits of, or is otherwise subjected to discrimination in any activity under this **Agreement**. The **Recipient** shall take all measures necessary to effectuate these assurances.
- 8.6 The **Recipient** is hereby authorized to contract with third parties (subcontracts) for services awarded through a competitive process required by Florida Statutes. The **Recipient** shall not subcontract, assign, or transfer any other work under this **Agreement** without the prior written consent of the **District's** Project Manager. The **Recipient** agrees to be responsible for the fulfillment of all work elements included in any subcontract and agrees to be responsible for the payment of all monies due under any subcontract. It is understood and agreed by the **Recipient** that the **District** shall not be liable to any subcontractor for any expenses or liabilities incurred under the subcontract(s).
- 8.7 Pursuant to Section 287.133, Florida Statutes, a person or affiliate who has been placed on the convicted vendor list may not submit a bid, proposal, or reply to a request to provide any goods or services related to the construction of the Project contemplated herein. **Recipient** also assures that it is not on the **District's** Suspension of Contractors List. **Recipient** agrees to include a provision to this effect in all requests for proposals and subcontracts related to construction of this Project.
- 8.8 The **Recipient** shall comply with Section 287.135, Florida Statutes. The **Recipient** further understands and accepts that this **Agreement** shall be either void by the **District** or subject to immediate termination by the **District** in the event there is any misrepresentation or false certification on the part of the **Recipient**. The **District**, in the event of such termination, shall not incur any liability to the **Recipient** for any work or materials furnished.

ARTICLE 9 – INDEMNIFICATION

- 9.1 For value received, which is hereby acknowledged, the **Recipient** shall, subject to the limits permitted in Section 768.28, Florida Statutes, defend, indemnify, save, and hold the **District**, its officers, directors, board members, agents, assigns, and employees harmless from liabilities, damages, losses, and costs, including but not limited to reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentionally wrongful conduct of the **Recipient** and other persons employed or utilized by the **Recipient** in the performance of the **Agreement**. The **District** shall have the right to approve counsel selected by the **Recipient** to defend the **District** in the event the **District** is named in any legal action. Pursuant to Section 768.28, Florida Statutes, nothing herein shall require the **Recipient** to be liable for intentional or reckless acts or for actions committed in bad faith or malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or

property. However, nothing contained here shall constitute a waiver by the **Recipient** of its sovereign immunity or the provisions of Section 768.28, Florida Statutes.

The **Recipient** further acknowledges that it is solely responsible for ensuring its compliance and the compliance of its subcontractors, suppliers, agents, assigns, invitees and employees with the terms of this **Agreement**. This paragraph shall survive the expiration or termination of this **Agreement**.

ARTICLE 10 – RELATIONSHIP BETWEEN THE PARTIES

- 10.1 The **Recipient** shall be considered an independent contractor and neither party shall be considered an employee or agent of the other party. Nothing in this **Agreement** shall be interpreted to establish any relationship other than that of an independent contractor between the parties and their respective employees, agents, subcontractors, or assigns during or after the performance of this **Agreement**. Both parties are free to enter into contracts with other parties for similar services.
- 10.2 The **Recipient** shall not assign, delegate or otherwise transfer its rights and obligations as set forth in this **Agreement** without the prior written consent of the **District**. Any attempted assignment in violation of this provision shall be null and void.
- 10.3 It is the intent and understanding of the Parties that this **Agreement** is solely for the benefit of the **Recipient** and the **District**. No person or entity other than the **Recipient** or the **District** shall have any rights or privileges under this **Agreement** in any capacity whatsoever, either as third-party beneficiary or otherwise.

ARTICLE 11 – GENERAL PROVISIONS

- 11.1 Notwithstanding any provisions of this **Agreement** to the contrary, the Parties shall not be held liable for any failure or delay in the performance of this **Agreement** that arises from fires, floods, strikes, embargoes, acts of the public enemy, unusually severe weather, outbreak of war, restraint of government, riots, civil commotion, force majeure, act of God or for any other cause of the same character, which is unavoidable through the exercise of due care and beyond the control of the Parties. Failure to perform shall be excused during the continuance of such circumstances, but this **Agreement** shall otherwise remain in effect. This provision shall not apply if the Statement of Work, Exhibit “A” of this **Agreement** specifies that performance by the **Recipient** is specifically required during the occurrence of any of the events herein mentioned.
- 11.2 Any inconsistency in this **Agreement** shall be resolved by giving precedence in the following order:
- (a) Terms and Conditions outlined in Articles 1-11
 - (b) Exhibit “A” Statement of Work
 - (c) Application
 - (d) All other exhibits, attachments and documents specifically incorporated herein by reference

- 11.3 Failures or waivers to insist on strict performance of any covenant, condition, or provision of this **Agreement** by the Parties, their successors and assigns shall not be deemed a waiver of any of its rights or remedies, nor shall it relieve the other Party from performing any subsequent obligations strictly in accordance with the terms of this **Agreement**. No waiver shall be effective unless in writing and signed by the Party against whom enforcement is sought. Such waiver shall be limited to provisions of this **Agreement** specifically referred to therein and shall not be deemed a waiver of any other provision. No waiver shall constitute a continuing waiver unless the writing states otherwise.
- 11.4 Should any term or provision of this **Agreement** be held, to any extent, invalid or unenforceable, as against any person, entity or circumstance during the term hereof, by force of any statute, law or ruling of any forum of competent jurisdiction, such invalidity shall not affect any other term or provision of this **Agreement**, to the extent the **Agreement** shall remain operable, enforceable and in full force and effect to the extent permitted by law.
- 11.5 This **Agreement** may be amended only with the written approval of the Parties.
- 11.6 This **Agreement** states that all publicity/outreach media will be jointly planned by the **Recipient** and the **District** and any and all materials, events, or endorsements arising out of this award will acknowledge the participation and funding by the **District**.
- 11.7 This **Agreement** may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. A photocopy, email or facsimile copy of this **Agreement** and any signatory hereon shall be considered for all purposes as original.
- 11.8 This **Agreement** states the entire understanding and **Agreement** between the Parties and supersedes any and all written or oral representations, statements, negotiations or **Agreements** previously existing between the Parties with respect to the subject matter of this **Agreement**. The **Recipient** recognizes that any representations, statements or negotiations made by **District** staff do not suffice to legally bind the **District** in a contractual relationship unless they have been reduced to writing and signed by an authorized **District** representative. This **Agreement** shall inure to the benefit of and shall be binding upon the parties, their respective assigns, and successors in interest.

IN WITNESS WHEREOF, the Parties or their duly authorized representatives hereby execute this **Agreement** on the date written below.

**SOUTH FLORIDA WATER MANAGEMENT DISTRICT,
BY ITS GOVERNING BOARD**

By: _____
Drew Bartlett, Executive Director

Date: _____

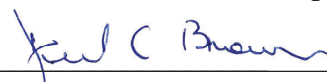
By: _____
**Candida Heater, Division Director
Administrative Services**

Date: _____

SFWMD Procurement Approved:

By:  Date : 07/26/2023

SFWMD Office of Counsel Approved:

By:  Date : 8/1/2023

**Recipient's Legal Name: BROWARD COUNTY BOARD OF
COUNTY COMMISSIONERS**

By Authorized Official: _____

Printed Name: _____

Title: _____

Date: _____

Approved as to form and legal sufficiency:

Andrew J. Meyers, County Attorney

By **MICHAEL KERR**
Digitally signed by MICHAEL
KERR
Date: 2024.03.05 15:21:41 -05'00'
Michael J. Kerr, Deputy County Attorney

EXHIBIT “A”
STATEMENT OF WORK

High Efficiency Toilet Replacement Credit Program
Broward County Water and Wastewater Services

A. INTRODUCTION/BACKGROUND

Broward County Water and Wastewater Services (BCWWS or Recipient) provides retail water distribution to three major districts in northeast, central, and south-central Broward County. BCWWS has over 212,000 retail customers, which is the target group of this project. The BCWWS United States Environmental Protection Agency (EPA) WaterSense® High-Efficiency Toilet Replacement Credit Program has been a successful water conservation project since 2010. Overall, this program has replaced nearly 4,000 toilets and saved over 80 million gallons of potable water cumulatively through Fiscal Year 2020.

B. OBJECTIVES

The overall objective is to reduce household potable water use by replacing old, inefficient toilets with new EPA WaterSense® labeled high efficiency toilets using 1.28 gallons per flush (gpf).

C. SCOPE OF WORK

The target group is the BCWWS service area residential customers. The BCWWS will offer a \$100 credit for each toilet replacement (limited to two per household). The project’s target is 600 toilet replacements by September 30, 2024. The BCWWS will credit the participating customer’s bill once they provide proper identification, a receipt for an EPA WaterSense® labeled high efficiency toilet(s) and a receipt and/or affidavit of toilet installation and disposal of the old unit. The estimated water savings for this project is 3.9 million gallons per year.

D. WORK BREAKDOWN STRUCTURE

The work breakdown structure associated with this project is described below. Note that if the project is complete prior to the due date of a Status Report (Tasks 1-7), then Exhibit “D” shall replace the Status Report and subsequent Status Reports shall not be required.

Task 1 – Exhibit “C” Quarterly Status Report: **Recipient** shall submit to the project manager a status report summarizing progress made to date, issues of concern potentially affecting project performance, and any other information pertinent to the project.

Due Date: December 31, 2022

Task 2 – Exhibit “C” Quarterly Status Report: **Recipient** shall submit to the project manager a status report summarizing progress made to date, issues of concern potentially affecting project performance, and any other information pertinent to the project.

Due Date: March 31, 2023

Task 3 – Exhibit “C” Quarterly Status Report: **Recipient** shall submit to the project manager a status report summarizing progress made to date, issues of concern potentially affecting project performance, and any other information pertinent to the project.

Due Date: June 30, 2023

Task 4 – Exhibit “C” Quarterly Status Report: **Recipient** shall submit to the project manager a status report summarizing progress made to date, issues of concern potentially affecting project performance, and any other information pertinent to the project.

Due Date: September 30, 2023

Task 5 – Exhibit “C” Quarterly Status Report: **Recipient** shall submit to the project manager a status report summarizing progress made to date, issues of concern potentially affecting project performance, and any other information pertinent to the project.

Due Date: December 31, 2023

Task 6 – Exhibit “C” Quarterly Status Report: **Recipient** shall submit to the project manager a status report summarizing progress made to date, issues of concern potentially affecting project performance, and any other information pertinent to the project.

Due Date: March 31, 2024

Task 7– Exhibit “C” Quarterly Status Report: **Recipient** shall submit to the project manager a status report summarizing progress made to date, issues of concern potentially affecting project performance, and any other information pertinent to the project.

Due Date: June 30, 2024

Task 8: **Recipient** shall approve, process, and apply \$100 credits on the owner/customers’ utility bill for the purchase and installation of 600 WaterSense® labeled High Efficiency Toilets, with a limit of two (2) per residential dwelling unit.

Due Date: Upon Task Completion.

Task 9 – Reimbursement Package & Project Summary Sheet (Exhibit “D”): **Recipient** shall submit to the project manager the reimbursement request package, to include but not limited to, signed certification letter that the project is complete per the agreement, copies of vendor invoices, Exhibit “F” Cost Breakdown with documented man-hours, other in-kind services and any other documentation supporting payment.

Due Date: September 30, 2024

EXHIBIT “B”
PAYMENT AND DELIVERABLES SCHEDULE

High Efficiency Toilet Replacement Credit Program
Broward County Water and Wastewater Services

- A summary deliverable schedule associated with this project is set forth below.
- The **Recipient** shall submit all deliverables to the **District’s** project manager. All deliverables submitted hereunder are subject to review by the **District**. The **Recipient** hereby agrees to provide the **District** all deliverables, data and information described in the Statement of Work.
- The **Recipient** shall provide quarterly progress reports summarizing a brief description of the current status of the project and the extent of project completion. Progress reports are due within 10 days of the due dates: December 31, 2022, March 31, 2023, June 30, 2023, September 30, 2023, December 31, 2023, March 31, 2024, and June 30, 2024. Reports will provide detail on the progress of the project and outline any potential issues affecting project completion. Progress reports shall be submitted on the Quarterly Status Report, attached hereto as Exhibit “C”.
- Reimbursement Request Packages shall include but not be limited to, a copy of **Recipient’s** invoice, signed certification letter that task(s) are complete per the agreement, Exhibit “D” Project Summary Report, copies of vendor invoices, copies of vendor payments, Exhibit “F” Cost Breakdown Summary¹, and any other documentation supporting payment. Timely payment of invoices shall be contingent upon the District’s review and acceptance of all invoice(s). Final payment is subject to the final project cost. The Reimbursement Request Package shall be submitted on or before September 30, 2024.
- Total reimbursement payment by the **District** for all work completed herein *shall not exceed* the amount of \$25,500. All payments are subject to **District** fiscal year appropriations. The **Recipient** shall contribute funding in the amount of \$34,500 or approximately 58 percent of actual costs. If the total consideration for this **Agreement** is subject to multi-year funding allocations, funding for each applicable fiscal year of this **Agreement** will be subject to Governing Board budgetary appropriation. In the event the **District** does not approve funding for any subsequent fiscal year, this **Agreement** shall terminate upon expenditure of the current funding, notwithstanding other provisions in this **Agreement** to the contrary.

¹ Exhibit “F”, Cost Breakdown Summary sheet will be sent electronically for Recipient’s use during the agreement period.

Task No.	Deliverable(s)	Invoice Date¹	Report Due Date	District Not-To-Exceed Payment
1	Exhibit “C” – Quarterly Status Report	N/A	December 31, 2022	N/A
2	Exhibit “C” – Quarterly Status Report	N/A	March 31, 2023	N/A
3	Exhibit “C” – Quarterly Status Report	N/A	June 30, 2023	N/A
4	Exhibit “C” – Quarterly Status Report	N/A	September 30, 2023	N/A
5	Exhibit “C” – Quarterly Status Report	N/A	December 31, 2023	N/A
6	Exhibit “C” – Quarterly Status Report	N/A	March 31, 2024	N/A
7	Exhibit “C” – Quarterly Status Report	N/A	June 30, 2024	N/A
8	Approve, process, and apply \$100 credits on the owner/customers’ utility bill for the purchase and installation of 600 WaterSense® labeled High Efficiency Toilets	Upon Task Completion	Upon Task Completion	\$25,500
9	Reimbursement Request Package & Project Summary Report (Exhibit “D”)	September 30, 2024	September 30, 2024	N/A
Total District Funding				\$25,500
Total Project Cost				\$60,000

¹The deadline for the Reimbursement Request Package submittal is on or before September 30, 2024 for reimbursement, no exceptions.



EXHIBIT "C"

Water Conservation

Quarterly Status Report

Agreement Number:	4600004826	Purchase Order Number:	
Reporting Quarter: 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/> 6 <input type="checkbox"/> 7 <input type="checkbox"/>			
Project Title:	High Efficiency Toilet Replacement Credit Program	Recipient:	Broward County Water and Wastewater Services
Installations/Rebates per Agreement:	600	Installations/Rebates to date:	
Overall status of project:	On Schedule <input type="checkbox"/>	Behind Schedule <input type="checkbox"/>	
If behind schedule, provide an explanation:			
Project Summary (to date):			
Recommended Actions:			
Submitted by:		Title:	
Email:		Date:	
Report submittal and/or questions: Email or call Rosines Colon at rcolon@sfwmd.gov or 561-682-6715			
SFWMD staff only:			
Date received:		Received by:	
Status:	Commenced <input type="checkbox"/>	On Schedule <input type="checkbox"/>	Behind Schedule <input type="checkbox"/>
	Completed <input type="checkbox"/>	Closed <input type="checkbox"/>	



EXHIBIT "D"

Water Conservation

Final Project Summary Report

High Efficiency Toilet Replacement Credit
Program

Enter text.

Project Title**Recipient Project Manager**

4600004826

Broward County Water and Wastewater Services

SFWMD Agreement / PO Numbers**Recipient Name (Project Owner)**

Type of Water Conservation Project	Project Start Date	Project End Date	Estimated Water Savings
HET Replacement Program			
Was the original project scope fulfilled per the District Purchase Order? <input type="checkbox"/> Yes <input type="checkbox"/> No If no, provide an explanation below.			

COST FOR THIS PROJECT		
	Agreement Amounts	Actual Costs
Total Project Cost	\$60,000	
FUNDING BREAKDOWN FOR THIS PROJECT		
District Funding	\$25,500	\$
Local Funds	\$34,500	\$
Other Funding Source / In-kind Services		
From:	\$	\$
TOTAL PROJECT COST	\$60,000	\$

To the best of my knowledge, the above information is correct.

Recipient Project Manager

All supporting documentation is to be included to support Actual Costs and Actual Water Savings for this project as specified in the deliverables table. Supporting documentation is to include but

not limited to, copy of Recipient invoice, Recipient signed completion letter, copies of vendor invoices, Exhibit “F”, and any other documentation supporting payment.

Project Overview:

Provide a brief project summary below. Feel free to continue your responses on additional sheets if needed. Describe original scope of work verses what was actually completed. If applicable, explain why the original scope was not completed. If your project scope was completed under budget, please briefly explain why. How was this Project executed/implemented?

Device Purchased and Installed / Rebates Processed	Number of Devices / Rebates Proposed in Application	Number of Device / Rebates Actually Installed / Processed	Number of Dwelling Units (residences) or Facilities Affected	Cost per unit	Total Cost

Estimated Water Savings:

Show how estimated water savings for this Project was calculated if actual water savings are not available.

To the best of my knowledge, the above information is correct

Recipient Project Manager

All supporting documentation is to be included to support Actual Costs and Actual Water Savings for this project as specified in the deliverables table. Supporting documentation is to include but not limited to, copy of Recipient invoice, Recipient signed completion letter, copies of vendor invoices, Exhibit “F”, and any other documentation supporting payment.

EXHIBIT “E”

FUNDS AWARDED TO THE ENTITY PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

Federal Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following:					
Federal Program Number	Federal Agency	CFDA Number	CFDA Title	Funding Amount	State Appropriation Category

State Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following Matching Resources for Federal Programs:					
Federal Program Number	Federal Agency	CFDA Number	CFDA Title	Funding Amount	State Appropriation Category

State Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following Resources Subject to Section 215.97, F.S.:						
Federal Program Number	State Agency	State Fiscal Year	Number	CSFA Title or Funding Source Description	Funding Amount	State Appropriation Category
	Department of Environmental Protection	2022 - 2023	37.100	Alternative Water Supplies	\$25,500	141138
Total Award					\$25,500	

For each program identified above the recipient shall comply with the program requirements described in the Catalog of Federal Domestic Assistance (CFDA) [<https://beta.sam.gov/help/assistance-listing>] and/or the Florida Catalog of State Financial Assistance (CSFA) [<https://apps.fldfs.com/fsaa/catalog.aspx>]. The services/purposes for which the funds are to be used are included in the Agreement scope of services/work. Any match required by the recipient is clearly indicated in the Agreement.

EXHIBIT “F”

Cost Breakdown

Agreement Number:			
Purchase Order Number:			
Recipient Name:	Broward County Water and Wastewater Services		
Project Name:	High Efficiency Toilet Replacement Credit Program		
Original Projected Scope - October 01, 2022 - September 30, 2024			
<i>Item/Device</i>	<i>No. of Units</i>	<i>Cost per Unit</i>	<i>Total Cost</i>
Toilet replacement credit	600	\$100.00	\$60,000.00
Total	600		\$60,000.00
Actual Equipment Purchased & Installed - October 01, 2022 - September 30, 2024			
<i>Item/Device</i>	<i>No. of Units</i>	<i>Cost per Unit</i>	<i>Total Cost</i>
	0	\$0.00	\$0.00
		\$0.00	\$0.00
Total Purchased & Installed	0		\$0.00
Total spent by Recipient			
Original Funding as listed on Exhibit "B"			\$25,500
Original Scope Total Project Cost			\$60,000
Recipient approximate percentage of total funding as listed on Exhibit "B"			58%
District approximate percentage of funding			43%
Total Actual Project Expenditures			\$0
Actual Project Cost to Recipient after District funding			
Actual District funding			
*funding not to exceed 50% of actual cost or amount awarded, whichever is less			