

**CITY OF MIRAMAR
PROPOSED CITY COMMISSION AGENDA ITEM**

Meeting Date: October 13, 2021

Presenter's Name and Title: Jinsheng (Jin) Huo, Assistant Director of Utilities, on behalf of the Utilities Department

Prepared By: Jinsheng (Jin) Huo, Ph.D., P.E., BCEE, Assistant Director of Utilities

Temp. Reso. Number: 7503

Item Description: Temp Reso. No. 7503 APPROVING AN INTERLOCAL AGREEMENT BETWEEN BROWARD COUNTY AND THE CITY OF MIRAMAR TO PROVIDE A FIVE-YEAR TERM OF COST SHARE SUPPORT FOR A WATER CONSERVATION INCENTIVES PROGRAM TO BE COORDINATED BY BROWARD COUNTY WITHIN THE CITY OF MIRAMAR WATER SERVICE AREA, AND AUTHORIZE BROWARD COUNTY TO CONDUCT SPECIFIC MEDIA PROMOTION, OUTREACH, ADMINISTRATIVE, AND OTHER ACTIVITIES IN PARTNERSHIP WITH THE CITY OF MIRAMAR IN AN AMOUNT NOT-TO-EXCEED \$173,853 FOR FISCAL YEARS 2022-2026. (Utilities Director Roy Virgin)

Consent ☒ Resolution ☐ Ordinance ☐ Quasi-Judicial ☐ Public Hearing ☐

Instructions for the Office of the City Clerk: none

Public Notice – As required by the Sec. ____ of the City Code and/or Sec. ____, Florida Statutes, public notice for this item was provided as follows: on ____ in a ____ ad in the ____; by the posting the property on ____ and/or by sending mailed notice to property owners within ____ feet of the property on ____ (fill in all that apply)

Special Voting Requirement – As required by Sec. ____, of the City Code and/or Sec. ____, Florida Statutes, approval of this item requires a ____ (unanimous, 4/5ths etc.) vote by the City Commission.

Fiscal Impact: Yes ☒ No ☐

REMARKS Funding of \$33,620 is available in Utilities, GL-Account 410-55-550-536-000-604870 Entitled “Public Education” for Fiscal Year 2022; Total Funding of \$173,853 will be available in Utilities, GL-Account 410-55-550-536-000-604870 Entitled “Public Education” for Fiscal Years 2022-2026.

Content:

- Agenda Item Memo from the City Manager to City Commission
- Resolution TR 7503
- Exhibit A: Interlocal Agreement between Broward County and City of Miramar for Water Conservation Incentives Program



**CITY OF MIRAMAR
INTEROFFICE MEMORANDUM**

TO: Mayor, Vice Mayor, & City Commissioners
FROM: ^{FOR} Vernon E. Hargray, City Manager 
BY: Roy L. Virgin, Ph.D., Director of Utilities
DATE: October 7, 2021
RE: Temp. Reso. No. 7503 Water Conservation Incentives Interlocal Agreement

RECOMMENDATION: The City Manager recommends approval of an Interlocal Agreement (ILA) between Broward County and the City of Miramar to provide a five-year term of cost share support for a Water Conservation Incentives Program; and authorize Broward County to conduct specific media promotion outreach, administrative, and other activities in partnership with the City of Miramar in an amount not to exceed \$173,853 for Fiscal Years 2022-2026.

ISSUE: City Commission approval is required to execute the ILA.

BACKGROUND: Water plays a critical role in influencing the future sustainability of South Florida's economy, environment, and quality of life. In addition, population growth, rates of per capita consumption, and variable climatologic conditions continue to influence future water demands in Broward County.

In an effort to conserve water quality and quantity, local municipalities and water utilities through representation of the Water Advisory Board to the Broward County Board of County Commissioners and its Technical Advisory Committee, developed the Integrated Water Resource Plan. The plan seeks to optimize the beneficial uses of local water resources by creating additional water supplies and making existing water resources go further. Thus far, conservation demonstrates to be one of the most cost-effective and immediate means of utilizing existing resources to offset water demands to meet future water supply needs.

DISCUSSION: This ILA renewal will include the following scope of work:

For Broward County,

- 1) Administration of the Program.
- 2) Procurement and management of professional services to assist with Program development and implementation.
- 3) Manage and promote media campaign for water conservation outreach and Program marketing.
- 4) Communications coordination.
- 5) Rebate and incentives program.
- 6) Development of an awards/recognition program.
- 7) Leverage funds and resources.

For the City of Miramar (Partner),

- 1) Participate in coordination meetings.
- 2) Promotion.

Total consideration for this ILA is subject to multi-year funding allocations, and funding for each applicable fiscal year of this Agreement will be subject to County and Partner budgetary appropriations. In the event the County or Partner 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.

The payment schedule is shown below, which is also included in this ILA as “EXHIBIT B.”

Year	Incentives/ rebates cost	Media Outreach/ Administration cost	Maximum Not to Exceed Partner’s Cost	Invoice submitted by:
1	\$ 15,000.00	\$ 18,619.35	\$ 33,619.35	August 20, 2022
2	\$ 15,000.00	\$ 19,177.93	\$ 34,177.93	August 20, 2023
3	\$ 15,000.00	\$ 19,753.27	\$ 34,753.27	August 20, 2024
4	\$ 15,000.00	\$ 20,345.87	\$ 35,345.87	August 20, 2025
5	\$ 15,000.00	\$ 20,956.24	\$ 35,956.24	August 20, 2026

ANALYSIS: County-wide consumptive use water demands are projected to increase by as much as 45 million gallons per day by the year 2040 based on South Florida Water Management District’s Lower East Coast Water Supply Plan projections for public water supply raw water demands. The Water Conservation Incentives Program has been recognized as the lowest cost means of generating the additional water needed to meet the region’s projected water demands.

Funding of \$33,620 is available in Utilities, GL-Account 410-55-550-536-000-604870 Entitled “Public Education” for Fiscal Year 2022; Total Funding of \$173,853 will be available in Utilities, GL-Account 410-55-550-536-000-604870 Entitled “Public Education” for Fiscal Years 2022-2026.

The City Manager recommends approval of an interlocal agreement between Broward County and the City of Miramar to provide a five-year term of cost share support for a Water Conservation Incentives Program; and authorize Broward County to conduct specific media promotion outreach, administrative, and other activities in partnership with the City of Miramar at a not-to-exceed amount of \$173,853 for Fiscal Years 2022-2026.

Temp. Reso. No. 7503
10/1/21
10/5/21

**CITY OF MIRAMAR
MIRAMAR, FLORIDA**

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF MIRAMAR, FLORIDA, APPROVING AN INTERLOCAL AGREEMENT BETWEEN BROWARD COUNTY AND THE CITY OF MIRAMAR TO PROVIDE A FIVE-YEAR TERM OF COST SHARE SUPPORT FOR A WATER CONSERVATION INCENTIVES PROGRAM TO BE COORDINATED BY BROWARD COUNTY WITHIN THE CITY OF MIRAMAR WATER SERVICE AREA, AND AUTHORIZE BROWARD COUNTY TO CONDUCT SPECIFIC MEDIA PROMOTION, OUTREACH, ADMINISTRATIVE, AND OTHER ACTIVITIES IN PARTNERSHIP WITH THE CITY OF MIRAMAR IN AN AMOUNT NOT-TO-EXCEED \$173,853 FOR FISCAL YEARS 2022-2026; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, water plays a critical role in influencing the future sustainability of South Florida's economy, environment, and quality of life. In addition, population growth, rates of per capita consumption and variable climatologic conditions continue to influence future water demands in Broward County; and

WHEREAS, in an effort to conserve water quality and quantity, local municipalities and water utilities through representation of the Water Advisory Board to the Broward County Board of County Commissioners and its Technical Advisory Committee, developed the Integrated Water Resource Plan;

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10/5/21

WHEREAS, the Water Resource Plan seeks to optimize the beneficial uses of local water resources by creating additional water supplies and making existing water resources go further. Thus far, conservation demonstrates to be one of the most cost-effective and immediate means of utilizing existing resources to offset water demands to meet future water supply needs; and

WHEREAS, City Commission approval is required to execute the Interlocal Agreement; and

WHEREAS, The City Manager recommends approval of an Interlocal Agreement between Broward County and the City of Miramar to provide a five-year term of cost share support for a Water Conservation Incentives Program; and authorize Broward County to conduct specific media promotion outreach, administrative, and other activities in partnership with the City of Miramar in amount not to exceed \$173,853 for Fiscal Years 2022-2026.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF MIRAMAR, FLORIDA AS FOLLOWS:

Section 1: That the foregoing “**WHEREAS**” clauses are ratified and confirmed as being true and correct and are made a specific part of this Resolution.

Section 2 : That the City Manager is authorized to execute an Interlocal Agreement between Broward County and the City of Miramar to provide a five-year term of cost share support for a Water Conservation Incentives Program at a not-to-exceed amount of \$173,853 for Fiscal Years 2022-2026.

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10/1/21

10/5/21

Section 3: That the appropriate City officials are authorized to do all things necessary and expedient in order to carry out the aims of this Resolution.

Section 4: That this Resolution shall become effective upon adoption.

PASSED AND ADOPTED this _____ day of _____, _____.

Mayor, Wayne M. Messam

Vice Mayor, Yvette Colbourne

ATTEST:

City Clerk, Denise A. Gibbs

I HEREBY CERTIFY that I have approved
this RESOLUTION as to form:

City Attorney,
Austin Pamies Norris Weeks Powell, PLLC

Requested by Administration

Commissioner Winston F. Barnes
Commissioner Maxwell B. Chambers
Vice Mayor Yvette Colbourne
Commissioner Alexandra P. Davis
Mayor Wayne M. Messam

Voted

Reso. No. _____

INTERLOCAL AGREEMENT**Between****BROWARD COUNTY****and****CITY OF MIRAMAR****for****COST SHARE SUPPORT OF A
WATER CONSERVATION INCENTIVES PROGRAM**

This Interlocal Agreement (the "Agreement") is made and entered into by and between Broward County, a political subdivision of the State of Florida ("County"), and the City of Miramar, its successors and assigns, hereinafter referred to as "Partner," collectively the "Parties." Collectively "County" and/or "Partner" will be referred to as the "Party" or "Parties."

RECITALS

- A. County-wide consumptive use water demands are projected to increase by as much as 45 million gallons per day by the year 2040 based on South Florida Water Management District's Lower East Coast Water Supply Plan projections for public water supply raw water demands;
- B. The county-wide Integrated Water Resource Plan seeks to optimize the beneficial uses of local water resources by making our water resources go further;
- C. In May 2008, the Broward Water Resources Task Force (Task Force) was created through resolutions of the Broward County Board of County Commissioners, South Florida Water Management District, and Broward League of Cities to identify and evaluate potential regional and subregional water supply projects and water conservation opportunities;
- D. The Task Force recognized that water conservation and incentive programs offer the lowest cost means of generating the additional water needed to meet the region's projected water demands;
- E. Since its formation in 2011, the Broward Water Partnership (aka Conservation Pays) and the regional Water Conservation Incentives Program have experienced many successes, and therefore the Parties now desire to renew this Agreement in furtherance of shared water conservation goals, regional water conservation strategies, and conservation activities reflected in consumptive use permit requirements.

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1. DEFINITIONS

- 1.1. Board. The Board of County Commissioners of Broward County, Florida.
- 1.2. Contract Administrator. Director of the Broward County Environmental Planning and Community Resilience Division or such person's successor as designated by County in writing.
- 1.3. County. Broward County, Florida, a political subdivision of the State of Florida.
- 1.4. Project. The project or projects set forth in Article 2 hereof, and Exhibit A.

ARTICLE 2. SCOPE OF SERVICES

- 2.1. Scope of Services. The Parties shall perform all work specified in this Agreement including the work specified in Exhibit A ("Scope of Services"). Unless stated otherwise in this Agreement, the work required of the Parties includes all labor, materials and tasks, whether or not enumerated in the Agreement, that are such an inseparable part of the work expressly stated in the Agreement that exclusion thereof would render any Party's performance impractical, illogical, or unconscionable.

ARTICLE 3. FINANCIAL CONTRIBUTION

- 3.1 County agrees to provide a total not to exceed amount of \$125,000.00 annually towards meeting all obligations amongst the Parties as outlined in Exhibit A.
- 3.2 Partner agrees to pay the maximum amounts not to exceed described in Exhibit B, including i) an annual base cost for media outreach and administration of \$18,619.35 subject to an annual cost-of-living adjustment of 3% in Years 2 through 5 of the Agreement, and ii) reimbursement of incentives/rebates costs actually incurred by County.
- 3.3 County may invoice Partner within 45 days of the Effective Date and annually thereafter for the amounts set forth in Exhibit B. Payment is due no later than 45 days from invoice. Payment shall be made to County at:

Broward County Board of County Commissioners
Director, Environmental Planning and Community Resilience Division
115 South Andrews Avenue, Room 329-H
Fort Lauderdale, Florida 33301

ARTICLE 4. TERM AND TIME OF AGREEMENT

- 4.1 Term. The term of this Agreement shall begin on October 1, 2021 (the "Effective Date"). The term of the Agreement shall be for a period of five (5) years from the Effective Date.
- 4.2 Extensions. No extensions of this Agreement are anticipated. In the event that expiration of this Agreement would result in a gap in the provision of services necessary for the ongoing operations of the County, then this Agreement may be extended, at the sole discretion of the Purchasing Director, on the same terms and conditions by the Purchasing Director for period(s) not to exceed six (6) months in the aggregate.
- 4.3 Fiscal Year. The continuation of this Agreement beyond the end of any Party's fiscal year shall be subject to both the appropriation and the availability of funds, in accordance with Chapters 129 and 166, Florida Statutes.
- 4.4 Force and Effect. All duties, obligations, and responsibilities of the Parties required by this Agreement shall remain in full force and effect throughout the term of this Agreement, as set forth above, unless written notice of termination by the County or any of the Partners is provided pursuant to the Notices provision.
- 4.5 Time of the Essence. Time is of the essence for all performance required under this Agreement.

ARTICLE 5. TERMINATION

- 5.1. This Agreement may be terminated for cause by the aggrieved Party if the Party in breach has not corrected the breach within ten (10) days after receipt of written notice from the aggrieved Party identifying the breach. This Agreement may also be terminated for convenience by the Board. Termination for convenience by the Board shall be effective on the termination date stated in written notice provided by County, which termination date shall be not less than thirty (30) days after the date of such written notice. Unless otherwise stated in this Agreement, if this Agreement was approved by Board action, termination for cause by County must be by action of the Board or the County Administrator; in all other instances termination for cause may be effected by the County Administrator, the County representative expressly authorized under this Agreement, or the County representative (including any successor) who executed the Agreement on behalf of County. This Agreement may also be terminated by the County Administrator upon such notice as the County Administrator deems appropriate under the circumstances if the County Administrator determines that termination is necessary to protect the public health, safety, or welfare. If County erroneously, improperly, or unjustifiably terminates for cause, such termination shall be deemed a termination for convenience and shall be effective thirty (30) days after such notice of termination for cause was provided.

- 5.2. Termination of this Agreement for cause shall include, but not be limited to, negligent, or intentional acts, repeated submission for payment of false or incorrect bills or invoices, failure to suitably perform the work, failure to continuously perform the work in a manner calculated to meet or accomplish the objectives as set forth in this Agreement, or multiple breaches of this Agreement which has a material adverse effect on the efficient administration of the Project notwithstanding whether any such breach was previously waived or cured.
- 5.3. Notice of termination shall be provided in accordance with the "Notices" section of this Agreement except that notice of termination by County Administrator which County Administrator deems necessary to protect the public health, safety, or welfare may be verbal notice which shall be promptly confirmed in writing in accordance with the "Notices" section of this Agreement.
- 5.4. In the event this Agreement is terminated for convenience, County shall be paid for any services properly performed to the date the Agreement is terminated; however, upon being notified of Partner's election to terminate, County shall refrain from performing further services or incurring additional expenses under the terms of this Agreement. Partner acknowledges that it has received good, valuable, and sufficient consideration for County's right to terminate this Agreement for convenience in the form of County's obligation to provide advance notice to Partner of such termination in accordance with Section.

ARTICLE 6. GOVERNMENTAL IMMUNITY AND LIABILITY PROTECTION

- 6.1 Nothing herein is intended to serve as a waiver of sovereign immunity by any Party nor shall any term included herein be construed as consent to be sued by third Parties in any matter arising out of this Agreement or any other contract. County and Partner, to the extent that they are state agencies or political subdivisions as defined in Chapter 768.28, Florida Statutes, agree to be fully responsible for the acts and omissions of its agents or employees to the extent permitted by law.
- 6.2 Partner is an entity subject to Section 768.28, Florida Statutes, and Partner shall furnish Contract Administrator with written verification of liability protection in accordance with state law prior to final execution of said Agreement.

ARTICLE 7. MISCELLANEOUS

- 7.1 Contract Administrator Authority. The Contract Administrator is authorized to coordinate and communicate with Partner and Consultants to manage and supervise the performance of this Agreement. Unless expressly stated otherwise in this Agreement or otherwise set forth in an applicable provision of the Broward County Procurement Code, Broward County Code of Ordinances, or Broward County Administrative Code, the Contract Administrator may exercise any ministerial authority in connection with the day-to-day management of this Agreement. The Contract

Administrator may approve in writing minor modifications to the Scope of Services provided that such modifications do not increase the total cost to County or waive any rights of County.

7.2 Assignment. Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered by either Party. If Partner violates this provision, County shall have the right to immediately terminate this Agreement.

7.3 Public Records. To the extent either Party is acting on behalf of the other as stated in Section 119.0701, Florida Statutes, each Party shall:

7.3.1. Keep and maintain public records required to perform the Services;

7.3.2. Upon request, provide the other Party with a copy of the requested records or allow the records to be inspected or copied within a reasonable time and at a cost that does not exceed that provided in Chapter 119, Florida Statutes, or as otherwise provided by law;

7.3.3. Ensure that public records that are exempt or confidential and exempt from public record requirements are not disclosed except as authorized by law for the duration of this Agreement and following completion or termination of this Agreement; and

7.3.4. Upon completion or termination of this Agreement, each Party shall keep and maintain all public records related to this Agreement, except as required to comply with paragraph 6.2, and shall destroy any duplicate public records that are exempt or confidential and exempt. All records stored electronically must be provided to County upon request in a format that is compatible with the information technology systems of County.

Any material a Party contends constitutes or contains trade secrets or is otherwise exempt from production under Florida public records laws (including Chapter 119, Florida Statutes) ("Trade Secret Materials") must be separately submitted and conspicuously labeled "EXEMPT FROM PUBLIC RECORD PRODUCTION – TRADE SECRET." In addition, the Party providing the material must, simultaneous with the submission of any Trade Secret Materials, provide a sworn affidavit from a person with personal knowledge attesting that the Trade Secret Materials constitute trade secrets under Section 812.081, Florida Statutes, and stating the factual basis for same. If a third party submits a request to either Party for records designated as Trade Secret Materials, that Party shall refrain from disclosing the Trade Secret Materials, unless otherwise ordered by a court of competent jurisdiction or authorized in writing by the Party claiming the exemption. Neither Party waives any defense of sovereign immunity or increases the limits of its liability by entering into this Agreement, and each Party shall be liable for its own negligence and does not assume any liability for the other Party's negligence

relating to the nondisclosure of any Trade Secret Materials in response to a records request by a third party.

IF PARTNER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO PARTNER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (954) 519-1466, SMOLLOY@BROWARD.ORG, 115 S. ANDREWS AVE., SUITE 329H, FORT LAUDERDALE, FLORIDA 33301.

- 7.4 Materiality and Waiver of Breach. Each requirement, duty, and obligation set forth in this Agreement was bargained for at arm's-length and is agreed to by the Parties. Each requirement, duty, and obligation set forth in this Agreement is substantial and important to the formation of this Agreement, and each is, therefore, a material term of this Agreement. Neither Party's failure to enforce any provision of this Agreement shall be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement. To be effective, any waiver must be in writing signed by an authorized signatory of the Party granting the waiver.
- 7.5 Notices. In order for notice to a Party to be effective under this Agreement, notice must be sent via U.S. first-class mail with a contemporaneous copy via e-mail to the addresses listed below and shall be effective upon mailing. The addresses for notice shall remain as set forth herein unless and until changed by providing notice of such change.

NOTICE TO COUNTY:

Environmental Protection and Growth Management Department
Broward County Environmental Planning and Community Resilience Division
115 South Andrews Avenue, Room 329H
Fort Lauderdale, Florida 33301
Email address: smolloy@broward.org

With copy to:

Broward County Administrator
115 South Andrews Avenue, Suite 409
Fort Lauderdale, Florida 33301

NOTICE TO PARTNER:

City of Miramar
Vernon E. Hargray
2300 Civic Center Place
Miramar, FL 33025

- 7.6 Compliance with Laws. Each Party shall comply with all federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations under this Agreement.
- 7.7 Third Party Beneficiaries. The Parties acknowledge that there are no third party beneficiaries under this Agreement.
- 7.8 Severability. In the event any part of this Agreement is found to be unenforceable by any court of competent jurisdiction, that part shall be deemed severed from this Agreement and the balance of this Agreement shall remain in full force and effect.
- 7.9 Joint Preparation. This Agreement has been jointly prepared by the Parties hereto, and shall not be construed more strictly against either Party.
- 7.10 Priority of Provisions. If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of Articles 1 through 7 of this Agreement, the term, statement, requirement, or provision contained in Articles 1 through 7 shall prevail and be given effect.
- 7.11 Headings and Interpretation. The headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include the other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as "herein," "hereof," "hereunder," and "hereinafter," refer to this Agreement as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires.
- 7.12 Governing Law, Venue and Waiver of Jury Trial. 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 connection with this Agreement shall be in the state courts of the Seventeenth Judicial Circuit in and for Broward County, Florida. If any claim arising from, related to, or in connection with this Agreement must be litigated in federal court, the Parties agree that the exclusive venue for any such lawsuit shall be in the United States District Court or United States Bankruptcy Court for the Southern District of Florida. **BY ENTERING INTO THIS AGREEMENT, PARTNER AND COUNTY HEREBY EXPRESSLY WAIVE ANY AND ALL RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY RELATED TO THIS AGREEMENT. IF A PARTY FAILS TO WITHDRAW A REQUEST FOR A JURY TRIAL IN A LAWSUIT ARISING OUT OF THIS AGREEMENT AFTER WRITTEN NOTICE BY THE OTHER PARTY OF VIOLATION OF THIS SECTION, THE PARTY MAKING THE REQUEST FOR JURY TRIAL SHALL BE LIABLE FOR THE REASONABLE ATTORNEYS' FEES AND COSTS OF THE OTHER PARTY IN CONTESTING THE REQUEST FOR JURY TRIAL, AND SUCH AMOUNTS SHALL BE AWARDED BY THE COURT IN ADJUDICATING THE MOTION.**

- 7.13 Amendments. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by the Board and Partner. Further, Partner acknowledges and agrees that the Contract Administrator has no authority to make changes that would increase, decrease, or otherwise modify the Scope of Services to be provided under this Agreement.
- 7.14 Prior Agreements. This Agreement represents the final and complete understanding of the Parties regarding the subject matter hereof and supersedes all prior and contemporaneous negotiations and discussions regarding that subject matter. There is no commitment, agreement, or understanding concerning the subject matter of this Agreement that is not contained in this written document.
- 7.15 Incorporation by Reference. The truth and accuracy of each "Whereas" clause set forth above is acknowledged by the Parties. The attached Exhibit A and Exhibit B are incorporated into and made a part of this Agreement.
- 7.16 Representation of Authority. Each individual executing this Agreement on behalf of a Party hereto does hereby represent and warrant that he or she is, on the date he or she signs this Agreement, duly authorized by all necessary and appropriate action to execute this Agreement on behalf of such Party.
- 7.17 Force Majeure. If the performance of this Agreement, or any obligation hereunder, is prevented by reason of hurricane, earthquake, or other casualty caused by nature, or by labor strike, war, or by a law, order, proclamation, regulation, or ordinance of any governmental agency, the Party so affected, upon giving prompt notice to the other Party, shall be excused from such performance to the extent of such prevention, provided that the Party so affected shall first have taken reasonable steps to avoid and remove such cause of nonperformance and shall continue to take reasonable steps to avoid and remove such cause, and shall promptly notify the other Party in writing and resume performance hereunder whenever and to the full extent such causes are removed. However, if such nonperformance exceeds sixty (60) days, the Party that is not prevented from performance by the force majeure event shall have the right to immediately terminate this Agreement upon written notice to the Party so affected. This Section shall not supersede or prevent the exercise of any right the Parties may otherwise have to terminate this Agreement.
- 7.18 Counterparts and Multiple Originals. This Agreement may be executed in multiple originals, and may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.
- 7.19 Use of County or Partner Logos. Contractor shall not use County's or Partner's name, logo, or otherwise refer to this Agreement in any marketing or publicity materials without the prior written consent of the applicable party.

- 7.20 Independent Contractors. The Parties are independent contractors, and nothing in this Agreement shall constitute or create a legal entity, partnership, joint venture, or any other relationship between the Parties. In providing Services, neither Party nor their agents shall act as officers, employees, or agents of the other. Neither Party shall have the right to bind the other Party to any obligation not expressly undertaken by this Agreement.
- 7.21 Regulatory Capacity. Notwithstanding the fact that County is a political subdivision with certain regulatory authority, County's performance under this Agreement is as a Party to this Agreement and not in its regulatory capacity. If County exercises its regulatory authority, the exercise of such authority and the enforcement of any rules, regulation, laws, and ordinances shall have occurred pursuant to County's regulatory authority as a governmental body separate and apart from this Agreement, and shall not be attributable in any manner to County as a Party to this Agreement.

(The remainder of this page is intentionally left blank.)

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement: BROWARD County through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Mayor or Vice-Mayor, authorized to execute same by Board action on the ____ day of _____, 20__, and Partner, signing by and through its _____, duly authorized to execute same.

COUNTY

ATTEST:

BROWARD COUNTY, by and through
its Board of County Commissioners

Broward County Administrator, as
Ex-officio Clerk of the Broward County
Board of County Commissioners

By: _____
____ day of _____, 20__

Approved as to form by
Andrew J. Meyers
Broward County Attorney
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600
Telecopier: (954) 357-7641

By: _____
Deanna Kalil (Date)
Assistant County Attorney

By: _____
Michael C. Owens (Date)
Senior County Attorney

DK\gmb
RENEWAL ConservationPays ILA.docx
05/12/2021
#60057

INTERLOCAL AGREEMENT BETWEEN BROWARD COUNTY AND PARTNER TO PROVIDE COST
SHARE SUPPORT OF A WATER CONSERVATION INCENTIVES PROGRAM

CITY OF MIRAMAR

Attest:

Clerk

By _____
Mayor-Commissioner

____ day of _____, 20____

By _____
Manager

____ day of _____, 20____

APPROVED AS TO FORM:

City Attorney

EXHIBIT A
SCOPE OF SERVICES

Broward Community
Water Conservation and Incentives Program

1. INTRODUCTION

Water plays a critical role in South Florida and will continue to directly influence the future sustainability of Broward County's economy, environment, and quality of life. Future water demands will continue to be influenced by population growth, rates of per capita consumption, and variable climatologic conditions.

In 2007, the Regional Water Availability (RWA) Rule was adopted by the South Florida Water Management District to ensure the preservation of regional water resources in support of Everglades restoration. The RWA Rule limits future withdrawals from the Biscayne Aquifer, currently our primary source of drinking water, thereby requiring the development of alternative water supplies to meet growing urban demands for water. Although a number of alternative water supply projects are under development and regional strategies are being explored, water conservation has been repeatedly identified as a strategy warranting aggressive implementation.

In May 2008, the Broward Water Resources Task Force ("Task Force") was created to identify and evaluate potential regional and sub-regional water supply projects and water conservation opportunities. The Task Force recognized that water conservation offers the lowest cost means of generating the additional water needed to meet the region's projected water demands. In June 2010, the Task Force completed its report and included several recommendations for immediate implementation pertaining to regional water conservation efforts. A key recommendation advanced by the Task Force and supported by resolution of the Broward County Board of County Commissioners and the Broward League of Cities is the establishment of a county-wide water conservation and incentives program with the purpose of delivering unified water conservation messaging, information, and services to benefit all Broward county residents and water suppliers.

In response, in 2011, the Broward Water Partnership was formed, with water utilities committing resources to fund a regional rebate and incentives program as well as the centralized administration of the program by Broward County's Environmental Planning and Community Resilience Division, and Broward County committing funds for consultant services to aid in program branding, marketing, outreach and implementation. This program was subsequently branded Conservation Pays.

The overall objectives of the Conservation Pays Program (the "Program") are to encourage residents and businesses in Broward County to adopt an enduring water conservation ethic that supports long-term water resource sustainability and to achieve

permanent and measurable water savings through replacement of low efficiency plumbing fixtures with high efficiency models.

There are two principal components to the Program:

- Implementation of an aggressive media campaign to promote the overall need for water conservation, provide residents and businesses with information on ways to reduce their water consumption, and promote the availability of program resources.
- Provision of incentives for retrofitting existing fixtures with new, high efficiency plumbing fixtures through offers of free water-saving fixtures and rebates. Incentives and rebates will be provided for such retrofitting to include high efficiency toilets, pre-rinse spray valves, faucets, aerators, and showerheads or other mutually agreed upon combination of water-saving fixtures of equal value.

2. PROGRAM DESCRIPTION

The Conservation Pays Program is a coordinated county-wide program, with uniform branding that distinguishes this collaborative Partnership. Year-round messaging promotes water conservation and is heightened during dry months and periods of water shortage. Promotion and coordination of rebates and incentives is coordinated by the County, with an annual goal of distributing 2,000 toilet rebates, along with production of promotional materials, articles, a recognition program, and community outreach.

The proposed scope of work builds upon achievements already realized through implementation of the Conservation Pays program during its initial five-year period. The scope of work in Section 3, below, details the program elements, obligations, and commitments of the both Parties (County and Partners) in the delivery of the water conservation and incentives program within Partner jurisdictions in Broward County. This scope of work covers five years of full program implementation.

The County proposes to provide these services to achieve water conservation, cost savings, and greater environmental stewardship within residences and businesses throughout the County. This effort consists of both a technical approach, designed to replace water fixtures with higher efficiency models and reduce demand throughout residences and business operations, thereby resulting in documented water and cost savings, and supporting energy conservation; and, an education and outreach approach, aimed at championing the overall need to conserve water. The overall effort will be coordinated by the County, while individual Partner participation will be required for complete program implementation.

3. SCOPE OF WORK

The Scope of Work in support of the Partnership Agreement is undertaken through the following series of tasks.

COUNTY RESPONSIBILITIES:

Task 1 Administration of the Program. The County will provide overall administration of the Agreement, including financial and annual reporting.

The County will coordinate at least one meeting annually with Partners to present annual Program achievements, review administrative or logistical Program issues, and consider new Program promotions and opportunities for improvement.

The County will provide reports to Partners as requested on rebate expenditures, device deliveries, and water savings.

An Annual Report will outline the performance of the program and the meeting of goals and objectives. It will include a comparison of planned vs. implemented measures, communications tools, marketing efforts (including media buys), an analysis of marketing efforts relative to rebate activities, a report on leveraged funds, a summary of Program awards, identification of Program needs, and opportunities, and recommendations going forward. The report will also address any unanticipated delays and issues that necessitate modification of the Program. The County shall provide the Annual Report within one month following the completion of the County's fiscal year.

Task 2 Procurement and management of professional services to assist with Program development and implementation. The County will procure consulting services to assist in the overall development and implementation of an annual media and outreach campaign to get the water conservation message out, promote the Program, and connect conservation needs to climate change pressures on our water resources. For cost-effectiveness, the campaign will be designed to integrate as much as possible with existing regional outreach initiatives and media sources. The consultant, under direction of the County, will work with Partners to complete the following tasks, including, but not limited to: develop Program branding, create a Program website, develop Public Service Announcements ("PSAs") for broadcast media, prepare newsprint advertisements, arrange media buys, develop promotional articles, produce PSAs for viewing on public access channels and the County's video-on-demand service, design print materials, and develop promotional concepts.

Task 3 Manage and promote media campaign for water conservation outreach and Program marketing. The County will develop and promote an annual media

campaign designed to impart water conservation messages to residents (brochures, website, etc.); identify opportunities to distribute water-saving information and Program promotional materials to communities, businesses, schools and other venues of interest; and develop and deliver educational materials on the need to conserve water and ways to save water to residents through various media. Residents, employees, businesses, homeowner associations and other organizations that include utility customers are the targeted audiences. Categories of media to be considered in the promotion of the Program include pieces for written publications (newspapers, trade publications, newsletters, brochures), broadcast media (television, radio, automated phone lines), social media, and mobile device compatible websites. Promotion of the water conservation and incentives initiative will also occur through interaction with consumer groups, the plumbing industry, and fixture vendors. Opportunities to highlight results and publicize successes will be identified by the County.

Task 4 **Communications coordination.** The County will work with Partners to ensure linking of resources and communications among the network of Partners. A database will be created that identifies Partners, Program services, and educational resources. Program materials (brochures, fliers, posters) will be provided in electronic form for reproduction by Partners. A detailed list of preferred educational resources will be generated and posted on the main Program website (to be hosted by County) with all information to be coordinated and cross-posted.

Task 5 **Rebate and incentives program.** The County will coordinate with device vendors to promote the program and eligible devices; manage and process rebates; coordinate the purchase of conservation devices for exchange and giveaway; coordinate with Partners to identify appropriate points of distribution; promote both residential and commercial opportunities; provide for full accounting/tracking; and, provide additional outreach/promotion where demand may be less than availability.

The County will work with residents to guide them through the incentives process; work with regional vendors to ensure the availability of the desired retrofit fixtures and establish agreements for bulk purchasing; establish working relationships with the plumbing industry and fixture vendors; receive and evaluate resident applications for eligibility for replacement and rebates; manage the acquisition and distribution of fixtures to be provided to residents free of charge; manage the collection and disposal of replaced fixtures; manage the preparation and issuance of rebate checks; collect and analyze resident survey data; and evaluate the success of the incentives initiative.

Task 6 **Development of an awards/recognition program.** The County will coordinate with Partners to develop an awards/recognition program that quantifies and

promotes water savings achieved in homes and businesses where new water conservation devices are installed.

- Task 7 Leverage funds and resources.** The County will seek to leverage dollars and resources by pursuing additional funds and support from local, state, and national sources, including, but not limited to SFWMD's Local Cooperative Funding Program, Water Sense Partnership (EPA), and local groups. In addition, the County will solicit support from sponsors through the County's Advantage Marketing program.

PARTNER(S) RESPONSIBILITIES

- Task 8 Participate in coordination meetings.** The Partner will participate in coordination meetings and provide timely review and feedback on any Program products or deliverables. The Partner will identify a designated point of Partner contact. The Partner will assist in refining Program elements and expenditure priorities, as needed; develop controls and measures of success for the Program; and, provide final oversight of Program operations within the Partner's jurisdiction.
- Task 9 Promotion.** The Partner will work with the County to identify points of distribution and promotional outlets available to Partner to promote the Program and services within the Partner's jurisdiction and will actively coordinate with County on program promotions utilizing municipal media outlets and communications.

4. PAYMENT AND DELIVERABLES SCHEDULE

Payments for services provided by the County will be provided by the Partner according to the Exhibit B, Payment Schedule. Participating entities will not front the cost of individual rebates and/or devices but will be invoiced by the County for actual rebates and/or devices issued within their service areas within a given year.

This Agreement includes a 5-year term for Program delivery.

EXHIBIT B
PAYMENT SCHEDULE
City of Miramar

Total consideration for this Agreement is subject to multi-year funding allocations, and funding for each applicable fiscal year of this Agreement will be subject to County and Partner budgetary appropriations. In the event the County or Partner 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. Annual invoices shall be issued by August 20th, payment to be received by no later than September 30th. Partner will not front the cost of individual rebates and devices, but will be invoiced up to the maximum not to exceed costs exhibited in the chart below, by the County for actual rebates and devices issued within their service areas within a given year.

Year	Incentives/ rebates cost	Media Outreach/ Administration cost	Maximum Not to Exceed Partner's Cost	Invoice submitted by:
1	\$ 15,000.00	\$ 18,619.35	\$ 33,619.35	August 20, 2022
2	\$ 15,000.00	\$ 19,177.93	\$ 34,177.93	August 20, 2023
3	\$ 15,000.00	\$ 19,753.27	\$ 34,753.27	August 20, 2024
4	\$ 15,000.00	\$ 20,345.87	\$ 35,345.87	August 20, 2025
5	\$ 15,000.00	\$ 20,956.24	\$ 35,956.24	August 20, 2026