



**SOUTH FLORIDA WATER MANAGEMENT DISTRICT
COOPERATIVE FUNDING PROGRAM
Alternative Water Supply (AWS)**

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| <p>Recipient: City of Delray Beach</p> <p>Recipient's Project Manager: Victor Majtenyi</p> <p>Address: 434 South Swinton Avenue Delray Beach, FL 33444</p> <p>Telephone No: (561) 243-7328</p> <p>Email: majtenyi@mydelarybeach.com</p> | <p>Agreement Number: 4600003488</p> <p>Governing Board Approval Date: September 8, 2016</p> <p>District Funding Amount: \$400,000</p> <p>Contract Term: Oct. 1, 2016 – Oct. 31, 2018*</p> <p>*All deliverables are due by September 30, 2018</p> |
| <p>SFWMD Project Manager: Stacey Adams</p> <p>Telephone No.: (561) 682-6242</p> <p>E-mail Address: sadams@sfwm.gov</p> <p>Fax No.:</p> <p>Contract Specialist: Sharman Rose</p> <p>Telephone No.: (561) 682-2167</p> <p>Fax No.: (561) 682-5117</p> <p>Address: 3301 Gun Club Road West Palm Beach, FL 33406</p> <p>Insurance: Not Applicable</p> <p>Federal Employer Identification Number: 59-6000308</p> <p>Project Title: CFP AWS – Project # LEC-2002 – Reclaimed Water System Expansion – Area 12C</p> | |

This **Agreement** is entered into between “the Parties,” the South Florida Water Management District, the “**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,” attached hereto as Exhibit “A”, hereinafter referred to as the “Project”, 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 |

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 page one of this **Agreement**. Such amount is a not-to-exceed the specified amount and therefore, no additional consideration shall be authorized. The **Recipient** shall provide at least fifty percent (50%) or more of the Project’s actual construction cost, unless a different amount is authorized pursuant to section 373.707, F.S. The **Recipient** acknowledges that the **District** may authorize an amount less than fifty percent (50%); and, if current fiscal year construction costs decrease, the approved funding may be decreased. The approved funding is a percentage, up to fifty percent (50%) based on

the estimated current fiscal year project construction cost. Payment will be made by the **District** for work authorized and completed between October 1, 2016 and September 30, 2018. The **District** will not reimburse the **Recipient** for work that commences prior to the start date of the **Agreement** or for work completed after September 30, 2018.

- 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 construction activities described in Exhibit "A".
- 3.4 The **Recipient** agrees to reimburse the **District** funds provided through this **Agreement** for facilities (i.e. test/production wells, etc.) that do not become an operational component of the overall alternative water supply facility within the timeframe established in the application. Notwithstanding anything in this **Agreement** to the contrary, this paragraph shall remain in full force and effect for twenty (20) years from the date of contract execution.

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, 2016, March 31, 2017, June 30, 2017, September 20, 2017, December 31, 2017, March 31, 2018, and June 30, 2018. 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, 2018, 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 construction has been completed in accordance with Exhibit "A" of this **Agreement**.
- 4.2 In the event actual construction costs are less than the not-to-exceed amount for a particular task stated in Exhibit "B", the **Recipient** will have the right to apply the unexpended balance toward another task, unless the total current fiscal year construction cost has decreased. The **Recipient** shall provide prior written notice of its decision to exercise this right. If the **Recipient** does not exercise this right, the **Recipient** agrees to amend the contract to revise the approved funding consistent with the original percentage to the lower construction cost. In no event, shall the **District**'s total obligation exceed the amount specified in Exhibit "B" for this Cooperative **Agreement**; however, an actual construction cost less than an estimated construction cost may result in a reduced final payment. The **Recipient** is responsible for any additional funds either through local revenues, grants, other appropriations, and/or other funding sources.

4.3 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.

The **Recipient** shall submit the final reimbursement request and Exhibit “D” on or before September 30, 2018. 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**.

4.4 **Recipient** shall send its invoices and attachments to APIInvoice@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/signature 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

4.5 **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 Section 218.70, F.S. **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**.

4.6 Upon completion of the Project, any data that was generated during the performance of the Project shall be submitted to the **District** upon request.

4.7 **New Well Construction Projects:** For projects involving construction of new wells, the **Recipient** shall:

1. Submit design of well construction and testing programs to the **District** for review and comment prior to implementation. The **Recipient** shall integrate the **District's** comments into the final testing plan where feasible.
2. Submit all pertinent well information collected during well construction and testing (i.e., depths, cuttings descriptions, geophysical logs, aquifer test data, etc.), as available. Submissions shall be provided electronically as specified by the **District**.
3. If the final location of the well(s) varies from the original location specified in the Consumptive Use or other permit or permit applications, the **Recipient** shall provide the **District Project Manager(s)** with written proof that the appropriate permitting agency contact is aware of and agrees with the changes.

The data shall be archived in the **District's** permanent database and available to the public. Please contact Emily Richardson (561) 682-6824, Emily.Richardson@sfwmd.gov, for instructions on submitting data.

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**, other than those set forth in paragraph 4.2 above, 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, Part II of the 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 construction 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 Florida Statutes 119.0701(3)(a) [2016], 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 (CD-ROM or 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.**

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ARTICLE 8 – STANDARDS OF COMPLIANCE

- 8.1 The **Recipient**, its employees, subcontractors or assigns, shall comply with all applicable federal, state and local laws and regulations 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 **Agreement**. In the event it is necessary for either party to initiate legal action regarding this **Agreement**, venue shall be in the Fifteenth Judicial Circuit for claims under state law and in the Southern District of Florida for any claims, which are justifiable in federal court.
- 8.3 The **Recipient** shall allow public access to all Project documents and materials in accordance with the provisions of Chapter 119 of the Florida Statutes. Should the **Recipient** assert any exemptions to the requirements of Chapter 119 and related Statutes, the burden of establishing such exemption, by way of injunctive or other relief as provided by law, shall be upon the **Recipient**.
- 8.4 Pursuant to Section 216.347, F.S., the **Recipient** is prohibited from the expenditure of any funds under this **Agreement** to lobby the Legislature, the judicial branch or another state agency.
- 8.5. 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.

- 8.6 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.
- 8.7 The **Recipient** is hereby authorized to contract with third parties (subcontracts) for services awarded through a competitive process required by Florida Statues. 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).
- 8.8 Pursuant to Section 287.133, F.S., 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.
- 8.9 The **Recipient** shall comply with Chapters 215.473 and 215.4725, Florida Statutes, as amended. 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.
- 8.10 This paragraph shall remain in full force and effect for twenty (20) years from the date of contract execution. After construction is completed on the Project, the **Recipient** shall continuously operate the Project as described in the Project application and consistent with the application water use permit(s). In the event the Project is not operated or completed in accordance with these requirements, the **Recipient**, if requested by the **District**, agrees to reimburse the amount of funding the **District** provided to this project. This amount may be prorated based on the number of years the completed project is operated using an assumed project life of 20 years. Furthermore, the **District** may cease funding for this Project and any future Projects proposed by the **Recipient**.

ARTICLE 9 – INDEMNIFICATION AND INSURANCE

9.1 For value received, which is hereby acknowledged, the **Recipient** shall, subject to the limits permitted in Section 768.28, F.S., 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, F.S., 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, F.S.

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 require prior **District** approval.
- 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: _____
Lennart J. Lindahl, P.E.

Date: _____

By: _____
**Dorothy A. Bradshaw, Division Director
Administrative Services**

Date: _____

SFWMD Procurement Approved:
By: SL *close* Date: 10/19/14

SFWMD Office of Counsel Approved

By: _____ Date: _____

Recipient's Legal Name: CITY OF DELRAY BEACH

By Authorized Official: _____

Printed Name: _____

Title: _____

Date: _____

EXHIBIT "A"
STATEMENT OF WORK

Reclaimed Water System Expansion – Area 12C
City of Delray Beach

A. INTRODUCTION/BACKGROUND

The City of Delray Beach (City or Recipient) has established alternative water resource goals in conjunction with renewal of the City's Water Treatment Plant SFWMD Water Use Permit. Implementation of a reclaimed water system will reduce the demands on the surficial aquifer and on the City's potable water system.

The City's reclaimed Water Master Plan, completed in November 2003, identifies "Area 12C" as the ninth phase of the City's total reclaimed water system, which will provide up to 0.163 million gallons per day (mgd) of additional reclaimed water use for this phase. The City plans to implement other phases of the Master Plan on a continual basis over the next 9 years, and the total program will provide up to 5.1 mgd of reclaimed water available for the entire system. The Reclaimed Water Master Plan is consistent with the City's comprehensive plan, which specifically encourages more reuse of effluent from the wastewater treatment plant to reduce the demands on the potable water system.

B. OBJECTIVES

The objective is to provide up to 0.163 mgd of reclaimed water to offset potable water usage.

C. SCOPE OF WORK

This project involves constructing a reclaimed water distribution system consisting of approximately 3,015 linear feet of 4-inch, 2,120 liner feet of 8-inch, and 2,500 linear feet of 10-inch reclaimed water piping and associated valves, piping appurtenances, roadway repair, and general conditions to serve Area 12C reclaimed water service area.

This project will tie distribution mains into the existing 10-inch reclaimed water transmission piping along Hibiscus Road and 6-inch distribution piping along Casuarina Road, which were installed previously under the Area 12B project. Distribution mains will extend along Brooks Lane, White Drive, Rhodes-Villa Avenue, and Del-Haven Drive. A connection point will be provided for future phases.

D. WORK BREAKDOWN STRUCTURE

The work breakdown structure associated with this project is described below.

Task 1: **Recipient** shall submit to the project manager an electronic submittal of final project bid amount and/or vendor estimates for tasks to be completed by September 30, 2018.

Due Date: Upon Contract Execution

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: December 31, 2016

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: March 31, 2017

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: June 30, 2017

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: September 30, 2017

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: December 31, 2017

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: March 31, 2018

Task 8: 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, 2018

Task 9: **Recipient** shall construct approximately 2,500 linear feet of 10-inch diameter pipeline between Hibiscus Road and Del-Haven Drive, including all valves, fittings, piping appurtenances, and restoration / Reimbursement Request Package.

Due Date: Upon Task Completion

Task 10: **Recipient** shall construct approximately 2,120 linear feet of 8-inch diameter pipeline between Hibiscus Road and Casuarina Road, including all valves, fittings, piping appurtenances, and restoration / Reimbursement Request Package.

Due Date: Upon Task Completion

Task 11: **Recipient** shall construct approximately 3,015 linear feet of 4-inch diameter pipeline on Brooks Lane, White Drive, Rhodes-Villa Avenue, and Del-Haven Drive, including all valves, fittings, piping appurtenances, and restoration / Reimbursement Request Package.

Due Date: Upon Task Completion

Task 12: Final Reimbursement Request and Final Project Summary Report (Exhibit “D”):
Recipient shall submit to the project manager the final reimbursement request package and Project Summary Report (Exhibit “D”).

Due Date: September 30, 2018

EXHIBIT "B"
SUMMARY SCHEDULE OF TASKS AND DELIVERABLES

Reclaimed Water System Expansion – Area 12C
City of Delray Beach

- The schedule set forth below is October 1, 2016 to September 30, 2018.
- All deliverables submitted hereunder are subject to review and acceptance by the **District** Project Manager. Acceptability of all work will be based on the judgment of the **District** that the work is technically complete and accurate.
- Payment shall be made following receipt and acceptance by the **District** of the Reimbursement Request Package(s) in accordance with the schedule set forth below. The **Recipient** shall submit a reimbursement request upon completion of each Task noted below. If applicable, the **Recipient** shall submit a final reimbursement request for payment and Exhibit "D" on or before September 30, 2018 for reimbursement. All reimbursement requests shall be accompanied by adequate documentation to demonstrate completion of each Task in accordance with Exhibit "A" the Statement of Work (SOW).
- Reimbursement Request Packages shall include, but not be limited to, a copy of the **Recipient's** invoice, signed certification letter for partial payment that the Task(s) is (are) complete per the SOW or that the project is complete per the SOW, copies of vendor invoices, and any other documentation supporting payment. Reimbursement Request Packages shall adequately demonstrate completion of each Task in accordance with Exhibit "A" the SOW.
- The **District** shall only be obligated to pay for documented actual construction⁴ costs within the not-to-exceed amounts specified below. In the event actual construction costs by the **Recipient** are less than the not-to-exceed amount for a particular Task, the **Recipient** shall have the right to apply the unexpended balance toward another Task, unless the total current fiscal year construction cost has decreased. The **Recipient** shall provide prior written notice of its decision to exercise this right to the **District** Project Manager. If the **Recipient** does not exercise this right, the **Recipient** agrees to amend the contract to revise the approved funding consistent with the original percentage to the lower construction cost. In no event shall the **District**'s total obligation exceed the amount specified below for the total **Agreement**; however, an actual construction cost less than the estimated construction cost *may* result in a reduced final payment. The **Recipient** is responsible for any additional funds either through local revenues, grants, other appropriations, and/or other funding sources.
- Total payment by the **District** for all work completed herein shall not exceed the amount of \$400,000.00. If the total consideration for this **Agreement** is subject to multi-year funding allocations, funding for each applicable fiscal year 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.

| Task No. | Deliverable(s) | Invoice Date¹ | Report Due Date | District Not-To-Exceed Payment |
|---------------------------------------|--|--|--------------------------------------|---------------------------------------|
| 1 | Electronic submittal of final project bid amount and/or vendor estimates for tasks to be completed by September 30, 2018 | N/A | Upon Contract Execution ² | N/A |
| 2 | Exhibit "C" – Quarterly Status Report ³ | N/A | December 31, 2016 | N/A |
| 3 | Exhibit "C" – Quarterly Status Report ³ | N/A | March 31, 2017 | N/A |
| 4 | Exhibit "C" – Quarterly Status Report ³ | N/A | June 30, 2017 | N/A |
| 5 | Exhibit "C" – Quarterly Status Report ³ | N/A | September 30, 2017 | N/A |
| 6 | Exhibit "C" – Quarterly Status Report ³ | N/A | December 31, 2017 | N/A |
| 7 | Exhibit "C" – Quarterly Status Report ³ | N/A | March 31, 2018 | N/A |
| 8 | Exhibit "C" – Quarterly Status Report ³ | N/A | June 30, 2018 | N/A |
| 9 | Construct approximately 2,500 linear feet of 10-inch diameter pipeline between Hibiscus Road and Del-Haven Drive, including all valves, fittings, piping appurtenances, and restoration / Reimbursement Request Package | Upon Task Completion | N/A | \$143,700 |
| 10 | Construct approximately 2,120 linear feet of 8-inch diameter pipeline between Hibiscus Road and Casuarina Road, including all valves, fittings, piping appurtenances, and restoration / Reimbursement Request Package | Upon Task Completion | N/A | \$113,100 |
| 11 | Construct approximately 3,015 linear feet of 4-inch diameter pipeline on Brooks Lane, White Drive, Rhodes-Villa Avenue, and Del-Haven Drive, including all valves, fittings, piping appurtenances, and restoration / Reimbursement Request Package | Upon Task Completion | N/A | \$143,200 |
| 12 | a) Final Reimbursement Request Package (if applicable) b) Project Summary Report (Exhibit "D") | September 30, 2018 September 30, 2018 | | N/A |
| Total District Funding | | | | \$400,000 |
| Current Fiscal Year Construction Cost | | | | \$1,182,611 |
| Total Project Construction Cost | | | | \$1,182,611 |

¹ If applicable, interim Reimbursement Request Packages shall be submitted upon completion of the task(s) noted above. Reimbursement Request Packages must be submitted on or before September 30, 2018 for reimbursement.

² If construction bids and vendor estimates have not been completed upon execution of the **Agreement**, the **Recipient** shall submit this information as soon as it is available to the **District** Project Manager.

³ Exhibit "C" Quarterly Status Reports are due within ten (10) days of the due date.

⁴ Ineligible costs include, but not limited to, permits, as-builts, videos, early completion bonus, bonds and insurance, etc.

Note: If the project includes well drilling and testing, deliverables must include copies of all hydrogeologic data collected in the course of drilling and testing, in the **District** specified format. An electronic copy of the **District** specified format is available via email. Contact the appropriate **District** Project Manager to request one.

Exhibit "C"
Cooperative Funding Program
Alternative Water Supply
Quarterly Status Report

To comply with the AWS Status Report requirements specified in your contract, this form shall be completed and submitted via e-mail to your South Florida Water Management District project manager. Please attach backup documentation (e.g., pictures, drawings, etc.) that will provide an understanding of project construction to date.

Status Report - Quarter 1 2 3 4 5 6 7

Date: _____

Name of Person Completing Form _____

Contract Number: 4600003488 PO Number: _____

CFP Number: AWS-2005 Proposal Number: LEC-2002

Entity Name: City of Delray Beach

Project Title: Reclaimed Water System Expansion – Area 12C

1. Provide a brief description of project status.

2. What is the overall status of your project (check one)?

On Schedule

Behind Schedule? Explain why. Do you expect the project to be completed on time?

3. Actual Project Construction Cost Information

| | Date | Amount |
|-------------------------------------|------|--------|
| Bid Document | | |
| Final Contract (with Vendor) | | |
| Total Expended to Date | | |
| Change Order(s) | | |

Exhibit "C"
Cooperative Funding Program
Alternative Water Supply
Quarterly Status Report

4. Construction Deliverables Status – provide the following information for each deliverable listed in Exhibit “B” of the contract:

| Task No. | Exhibit “B” Deliverables | Is the Task Complete? Y/N | Estimated Finish Date* | Task Status and Comments |
|-----------------|--|----------------------------------|-------------------------------|---------------------------------|
| 1 | Electronic submittal of final project bid amount and/or vendor estimates for tasks to be completed by 9/30/18 | | Upon contract execution | |
| 2 | Exhibit “C” – Status Report | | 12/31/16 | |
| 3 | Exhibit “C” – Status Report | | 3/31/17 | |
| 4 | Exhibit “C” – Status Report | | 6/30/17 | |
| 5 | Exhibit “C” – Status Report | | 9/30/17 | |
| 6 | Exhibit “C” – Status Report | | 12/31/17 | |
| 7 | Exhibit “C” – Status Report | | 3/31/18 | |
| 8 | Exhibit “C” – Status Report | | 6/30/18 | |
| 9 | Construct approximately 2,500 linear feet of 10-inch diameter pipeline between Hibiscus Road and Del-Haven Drive, including all valves, fittings, piping appurtenances and restoration / Reimbursement Request Package | | Upon Task Completion | |
| 10 | Construct approximately 2,120 linear feet of 8-inch diameter pipeline between Hibiscus Road and Casuarina Road, including all valves, fittings, piping appurtenances and restoration / Reimbursement Request Package | | Upon Task Completion | |

Exhibit "C"
Cooperative Funding Program
Alternative Water Supply
Quarterly Status Report

| | | | | |
|----|--|--|----------------------|--|
| 11 | Construct approximately 3,015 linear feet of 4-inch diameter pipeline on Brooks Lane, White Drive, Rhodes-Villa Avenue and Del-Haven Drive, including all valves, fittings, piping appurtenances and restoration / Reimbursement Request Package | | Upon Task Completion | |
| 12 | a) Final Reimbursement Request Package (if applicable) b) Final Project Summary Report (Exhibit "D") | | 9/30/18 | |

* Note that all tasks have to be completed and invoiced by September 30th



Exhibit "D"
Cooperative Funding Program
Alternative Water Supply
Final Project Summary Report

Reclaimed Water System Expansion – Area 12C

Victor Majtenyi

Entity Project Manager

Project Title

4600003488/950000

City of Delray Beach

SFWMD Contract/Purchase Order Number

Entity Project Owner

Describe Project constructed: _____

| Type of Alternative Water Supply | Quantity of Water Made Available (MGD) Upon Completion of This Phase | | Construction Duration | |
|----------------------------------|--|--------|-----------------------|--------|
| | Proposed | Actual | Start | Finish |
| Reclaimed | | | | |

| Cost for this Phase (Phase refers to the current work) | | |
|---|-----------------------|---------------|
| | Proposed | Actual |
| Total Construction Cost – this phase | \$1,182,611.00 | \$ |
| Funding Breakdown for this Phase | | |
| District funding this phase | \$400,000.00 | \$ |
| Local funds | \$782,611.00 | \$ |
| Other funding source | | |
| From: | \$ | \$ |
| TOTAL | \$1,182,611.00 | |

Attach map(s) and photo(s) of project. The District will make payments only to reimburse for work completed between October 1, 2016 and September 30, 2018.

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

Chief Financial Officer

Project Manager