



**Interoffice Memorandum**

November 30, 2022

**AGENDA ITEM**

TO: Mayor Jerry L. Demings  
-AND-  
County Commissioners

FROM: Lavon B. Williams, Esq., AICP *Lavon B Williams*  
Deputy Director, Community and Family Services Department

SUBJECT: **Consent Agenda Item – December 13, 2022**  
Low Income Household Water Assistance Program (LIHWAP)  
Utility Vendor Agreement Template

The Community Action Division requests Board approval of the vendor agreement template that allows payments to be sent to the water utility vendors for the benefit of eligible customers who qualify for Low-Income Household Water Assistance Program utility assistance. The appropriate vendors will be inserted into the template. Staff is requesting that the Mayor or designee be authorized to execute the agreements with the various water utility vendors.

**ACTION REQUESTED: Approval of Low-Income Household Water Assistance Program Vendor Agreement template to be utilized with water utility vendors and authorization for the Mayor or designee to execute the agreements. All Districts.**

LBW/jamh

Attachment

c: Carla Bell Johnson, AICP, Deputy County Administrator  
Dr. Tracy Salem, Deputy Director, Community and Family Services  
Debbie Aska Graham, Program Manager, Community Action  
Maleka Mobley, Acting Family Services Program Manager, Community Action

**LOW-INCOME HOUSEHOLD WATER ASSISTANCE PROGRAM  
VENDOR AGREEMENT**

*between*

**ORANGE COUNTY, FLORIDA and «VENDOR\_NAME»**

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**LOW-INCOME HOUSEHOLD WATER ASSISTANCE PROGRAM  
VENDOR AGREEMENT**

*between*

**ORANGE COUNTY, FLORIDA and «VENDOR\_NAME»**

This Vendor Agreement (the “**Agreement**”) is entered into by and between **ORANGE COUNTY, FLORIDA**, a charter county and political subdivision of the State of Florida, with its principal place of business located at 201 South Rosalind Avenue, Orlando, Florida 32801 (the “**County**”), and **«VENDOR\_NAME»**, «Vendor\_Type», with its principal place of business located at «Vendor\_Principal\_Address» (the “**Vendor**”). Both the County and the Vendor may be individually referred to as “**party**” or collectively referred to as “**parties**” in this Agreement.

**Article 1: Agreement’s Purpose**

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- A. The Low-Income Household Water Assistance Program (“**LIHWAP**”) is a federally funded program that helps low-income qualified households with access to drinking water and wastewater reconnection and ongoing services costs. The federal funds awarded under LIHWAP shall be used as part of an overall emergency effort to prevent, prepare for, and respond to the COVID-19 pandemic, with the public health focus of ensuring that low-income households have access to drinking water and wastewater services. The funds will be used to cover and/or reduce arrearages, rates, and fees associated with reconnection or prevention of disconnection of service, and rate reduction to eligible households for such services.
- B. The State of Florida, Department of Economic Opportunity (the “**DEO**”), administers LIHWAP and allocates funding directly to subrecipient agencies located throughout the State.
- C. The County has entered into a subrecipient agreement with the DEO and has thusly been granted a LIHWAP subaward for the purpose of making water bill payments to participating public water utility providers on behalf of low-income residential public water utility customers/households that meet LIHWAP’s eligibility requirements (“**Eligible Customer(s)**”).
- D. Through its execution of this Agreement, the Vendor, a public water utility provider that is engaged in providing water and wastewater service to residential customers in Central Florida, hereby agrees to be a participating public water utility eligible to receive the County’s LIHWAP-funded payments.
- E. This Agreement sets out the terms and conditions by which the County shall utilize its LIHWAP subaward funding to make payments to the Vendor for water and wastewater reconnection and ongoing water utility bills on behalf of the Vendor’s Eligible Customers.

**Article 2: Term and Notice**

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**A. Term**

The term of this Agreement shall begin on **«Term\_Begin»** and will end **«Term\_End»**, unless terminated for convenience by either party upon no less than thirty (30) day written notice without cause. Such written notice of termination shall not affect any obligation by either party incurred prior to the receipt of such notice.

**B. Notice**

For purposes of this Agreement, notices and all other communications provided for herein shall be in writing and shall be deemed to have been duly given when received, if delivered personally or by courier,

or on the date receipt is acknowledged, if delivered by certified mail, postage prepaid, return receipt requested, as follows:

1. **To the County:**

Orange County Community Action Division, Attn: Division Manager, 2100 East Michigan Street, Orlando, Florida 32806

**With courtesy copy to:**

Orange County Administration, Attn: County Administrator, 201 South Rosalind Avenue, 5<sup>th</sup> Floor, Orlando, Florida 32801

2. **To the Vendor:**

«Vendor\_Name», «Vendor\_Notice\_Address»

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### Article 3: LIHWAP Program Guidelines

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#### A. Acknowledgement

The parties acknowledge that this Agreement and the services provided by the Vendor are governed by and subject to any and all applicable federal and state laws, regulations, policy, and guidance, including but not limited to the *LIHWAP Supplemental Terms & Conditions (hhs.gov)* which are hereby incorporated by reference and attached to this Agreement as “**Exhibit A**”.

#### B. Availability of Funding

The obligation of the County to proceed under this Agreement is conditioned upon the appropriation of funding by the Federal Government and the State of Florida. If the funding anticipated for the fulfillment of this Agreement are, at any time, not forthcoming or insufficient, the County shall have the right to terminate this Agreement without damage, penalty, cost, or expenses to the County of any kind whatsoever. The effective date of termination shall be as specified in the notice of termination. The County shall have final authority over whether such funding is available. At no time will the County be responsible or liable for making payment under this Agreement with County general revenue or from any funding source other than the one expressly provided for in this Agreement

#### C. Authorized Representatives

1. The individuals that are authorized by each party to resolve a crisis situation are as follows and may be unilaterally changed by each respective party by use of this Agreement's notice provision:

a. **For the County:**

The Division Manager of the Orange County Community Action Division

b. **For the Vendor:**

«Vendor\_Authorized\_Representative» [ «Vendor\_Authorized\_Representative\_Email» ]

2. The Vendor shall notify the County within ten (10) calendar days when the name of the company, ownership of the company, contact person, contact/billing information, authorized representative, services to be provided, or service coverage area changes.

#### D. Joint Duties

Both the Vendor and the County agree to meet with designated staff bi-annually to review any recommendations, accomplishments, unmet needs, and lessons learned as specified in the *LIHWAP Supplemental Terms & Conditions (hhs.gov)*.

#### **E. County Responsibilities; Customer Eligibility**

1. The County will accept applications for LIHWAP water and wastewater service bill payment assistance from the Vendor's water utility customers and, upon review of the applications received, determine if any such customers meet LIHWAP's eligibility requirements. Customers determined to meet LIHWAP's eligibility requirements will be designated as "**Eligible Customers**" by the County.
2. Only the County may make an eligibility determination of the Vendor's customers for payments issued pursuant to this Agreement. Accordingly, the Vendor shall not provide any assistance under this Agreement to any customer without the eligibility of such customer having first been established by the County.
3. Upon the written request of the Vendor, on a form approved by the County or through the Vendor's Agency Hotline «Vendor\_Agency\_Hotline\_Number», the County will provide the Vendor with all information used in determining eligibility and the amount of financial assistance to be provided by the County under this Agreement.
4. The County will accept referrals for LIHWAP benefits from the Vendor and, as it deems appropriate, provide authorization for payment for approved services.
5. The County will provide outreach activities in an equitable manner to ensure notification of program is given to potentially eligible households.
6. The County will review invoice(s) submitted by the Vendor. The County may request additional documentation and/or clarification of charges as need. No payment will be made without all required documentation and clarification of charges.
7. The County will provide payment to the Vendor after receipt of proper invoices, and any additional required documentation or clarification, for services rendered pursuant to this Agreement, upon full compliance by the Vendor with the terms of this Agreement.
8. The County shall comply with all relevant state and federal laws and regulations in its implementation of the LIHWAP and follow all guidance and LIHWAP-related terms and conditions as set forth by the Administration for Children and Families of the U.S. Department of Health and Human Services.
9. The County shall provide notice of any changes or amendments to policies or guidelines for the LIHWAP to the Vendor. Such notice may be distributed by email to the Vendor's Authorized Representative.
10. The County will be responsible for collecting and retaining the following program data indicators from the households set forth in the *LIHWAP Supplemental Terms & Conditions (hhs.gov)*:
  - a. The amount, cost, and type of water assistance provided for households eligible for assistance under this award;
  - b. The type of water assistance used by various income groups;
  - c. The number and income levels of households assisted by this award;
  - d. The number of households that received such assistance and include one or more individuals who are sixty (60) years or older, include a household member with a disability, or include young children (ages five (5) and younger);

- e. The impact of each grantee's LIHWAP program on recipient and eligible households (e.g., amount of assistance to each household, and whether assistance restored water service or prevented shutoff); and
  - f. Administrative information regarding local providers (if applicable), agreements with water utilities, recommendations, accomplishments, unmet needs and lessons learned.
11. The County will be responsible for planning and prioritizing funds for households in communities throughout its jurisdiction with the exception of households within tribal jurisdiction for which the Office of Community Services (OCS) of the U.S. Department of Health and Human Services has reserved a portion of LIHWAP funds.

#### **F. Vendor's Responsibilities**

1. The Vendor shall provide the County with a copy of the Employers Identification Number document or Social Security Card which was issued to the Vendor and which displays the number used by the IRS as the Vendor's tax identification number. The Vendor agrees to notify the County immediately when the tax identification number is changed, at which point the Vendor shall complete and provide a new W-9 to the County.
2. The Vendor shall provide water and/or wastewater services to each eligible and approved residential households for which payment is provided under LIHWAP.
3. The Vendor shall, pursuant to guidance provided from the federal and state regulations, after receiving LIHWAP payment for restoration of water services, maintain services for at least ninety (90) calendar days.
4. The Vendor shall post all payments to customer accounts within three to five (3-5) business days. LIHWAP payments may be used to pay past due and/or outstanding balances for customers whose accounts are currently open/active and the households is approved for LIHWAP assistance.

#### **G. Water Utility Service Payment**

1. The County shall make payment to the Vendor on behalf of Eligible Customers in the respective amounts due for water and wastewater service. The parties acknowledge that the foregoing amount may not be the entire amount of the Eligible Customer's monthly service statement.
2. The County acknowledges that the Vendor is entitled, under its service tariffs approved by the Florida Public Service Commission, to receive payment for utility service (inclusive of water and wastewater) within a certain period of time after the date of the Vendor's statement for such service. Notwithstanding the foregoing, the Vendor shall permit the County to issue its payment within thirty (30) calendar days of the date of notification of the amount due for an Eligible Customer's water and wastewater service (the "**Program Pay Period**").
3. The Vendor shall not terminate or seek to terminate the water and wastewater service of, seek to collect such monies that may be due for water and wastewater service from, or assess any late fees or charges against, an Eligible Customer during their Program Pay Period.
4. In the event the County fails to make the required payment within the established Program Pay Period, the Vendor shall be entitled to take whatever action is deemed appropriate under the terms of its approved service tariffs. Nothing in this provision shall be deemed to be a waiver of the Vendor's rights under its approved tariffs, or to preclude the Vendor from changing, modifying, or otherwise amending its approved service tariffs. Further, nothing herein shall be construed to mean that the Vendor forfeits or surrenders its right to any unpaid portion of the monthly statement.

5. The County may make payments for multiple Eligible Customers in one payment so long as it provides the Vendor with sufficient information concerning the allocation of the amount paid for each respective Eligible Customer's account. The Vendor shall properly record the receipt of such payment against the amounts due for each Eligible Customer and shall make available evidence of such payment records to the County upon request.
6. The Vendor shall continually maintain accurate records of LIHWAP credit balances and annually reconcile accounts. After one year, credit balances must be refunded to Orange County, in compliance with LIHWAP Vendor Refund Policies, no later than forty-five (45) calendar days following the end of the program year 2023.
7. **All payments made by the County under this Agreement should be mailed directly to:**  
«Vendor\_Name», «Vendor\_Payment\_Address»

#### **H. Vendor's Program Assurances and Statements**

By executing this Agreement, the Vendor hereby certifies to, acknowledges, and agrees with the following DEO-required assurances and statements:

1. The Vendor agrees to assist the County in verifying its customer account information and to make timely commitments to resolve any crisis situation. The Vendor agrees to provide the County with the following detailed customer account information upon request: (a) current amount owed; (b) relevant due dates/disconnect dates; and (c) amount necessary to resolve the crisis situation.
2. The Vendor assures the County that no household receiving LIHWAP assistance will be treated adversely by the Vendor because of such assistance under applicable provision of state or public regulatory requirements.
3. The Vendor assures that it will not discriminate, either in the cost of goods supplied or the services provided, against Eligible Customers on whose behalf LIHWAP payments are made.
4. The Vendor understands that only water and wastewater related elements of a utility bill are to be paid with LIHWAP payments.
5. The Vendor understands that it shall not apply LIHWAP payments to commercial accounts. LIHWAP payments should only be applied to residential accounts.
6. The Vendor understands that only direct costs of water and wastewater related elements of a utility bill are allowed and that the County is not permitted to pay for charges that result from illegal activities such as a bad check or meter tampering. The Vendor is aware that any such charges are the responsibility of the Eligible Customer.
7. The Vendor is aware that when the benefit amount does not pay for the complete charges owed by an Eligible Customer and that the Eligible Customer is responsible for paying any remaining amount owed.
8. The Vendor is aware that if LIHWAP payments made to the Vendor cannot be applied to an Eligible Customer's account, then the funds will be returned to the County or, with the County's written approval, applied to another Eligible Customer's account.
9. The Vendor understands that it is not permitted to exchange the household credit authorization for cash or give any cash equivalent for excess credit.

10. The Vendor shall cooperate with any and all federal, state, or local investigation, audit, or program review. The Vendor shall allow the County representative access to all books and records relating to LIHWAP households for the purpose of compliance verification with this Agreement.
11. The Vendor understands that failure to cooperate with any and all federal, state, or local investigation, audit, or program review may result in the immediate disqualification from participation in the LIHWAP.
12. The Vendor hereby affirms that this Agreement is signed by the Vendor's upper management with authority to enter into such commitments.
13. The Vendor assures the County that as long as signed Authorizations for Release of General and/or Confidential Information for LIHWAP Data are collected and available, it will provide requested customer data to the County and/or the DEO.

#### I. County's Program Assurances and Statements

By executing this Agreement, the County hereby certifies to, acknowledges, and agrees with the following DEO-required assurances and statements:

1. This Agreement will be signed by the County's upper management with authority to enter into such commitments.
2. The County shall collect signed Authorization for Release of General and/or Confidential Information for LIHWAP Data from each Eligible Customer that chooses to allow their data to be collected as part of the annual performance measures and ensure the signed releases are available for inspection by the Vendor.
3. The County shall make payment to the Vendor by the later of the following dates: forty-five (45) calendar days from the application date, or (30) calendar days of the date of notification of the amount due for an Eligible Customer's water and wastewater service.

#### J. Program Monitoring

The Vendor shall comply with the most recent *LIHWAP Program Monitoring Field Manual* provided by DEO and cooperate with any monitoring procedures/processes deemed appropriate by the DEO and any additional instructions as may be deemed appropriate by the DEO and County, as applicable. The County will provide the Vendor with a digital copy of such manual upon request.

#### K. Vendor Requirements

1. **Principal.** The term "**principal**" for purposes of **Paragraph K** of this Article means an officer, director, owner, partner, key employee, or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the Vendor.
2. **Debarment and Suspension.** The Vendor certifies by entering into this Agreement that neither it nor its principals nor any of its subcontractors are presently debarred or suspended, proposed for debarment or suspension, declared ineligible, or voluntarily excluded, from entering into this Agreement or any other agreement by any federal agency or by any department, agency, or political subdivision of the State of Florida. The Vendor additionally certifies that neither it nor any of its principals or subcontractors appear on the SAM Exclusions list and that it shall notify the County within five (5) business days if it or any of its principals or subcontractors are added to the SAM Exclusions list.



3. **E-Verify Use and Registration Certification.** Pursuant to Section 448.095, Florida Statutes, by executing this Agreement, the Vendor hereby certifies that it is registered with, and uses, the E-Verify system to verify the work authorization status of all newly hired employees. The Vendor further certifies that it does not employ, contract with, or subcontract with, an unauthorized alien, and that it shall provide an affidavit affirming this prior to receiving payment under this Agreement.
4. **Public Entity Crimes.** The Vendor represents that it is familiar with the requirements and prohibitions of the Public Entity Crime Act, Section 287.133, Florida Statutes, and represents that its entry into this Agreement will not violate that act. In addition to the foregoing, Vendor further represents that there has been no determination that it or any of its principals or subcontractors has committed a "public entity crime" as defined by Section 287.133, Florida Statutes, and that it, its principals, and its subcontractors have not been formally charged with committing an act defined as a "public entity crime", regardless of the amount of money involved or whether Vendor has been placed on the convicted vendor list.
5. **Scrutinized Companies.** The Vendor certifies that it is not on the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, Florida Statutes, and that it is not engaged in a boycott of Israel. The County may terminate this Agreement at the County's option if the Vendor is found to have submitted a false certification as provided under subsection (5) of Section 287.135, Florida Statutes, as may be amended or revised, or been placed on the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, Florida Statutes, as may be amended or revised, or is engaged in a boycott of Israel.
6. **State and Federal Registration.** Pursuant to the direction of the DEO: (a) the Vendor must be in "active" status with the State of Florida: <http://sunbiz.org/search.html>; and (b) the Vendor's name must be checked in the SAM system at: <http://www.sam.gov>. The name on this Agreement must match the legal business name on the State of Florida website. If the Vendor is a municipal provider, it is excluded from the requirements of this provision.
7. **Conflicts of Interest.**
  - a. The Vendor shall notify the County if the business owner or other key employee is employed by the County as well as if a member of his/her immediate family is employed by the County. ("**Immediate family**" means either a spouse or any other person who resides in the same household as the owner and who is a dependent of the owner).
  - b. If the Vendor is privately-owned:
    - (1) The County will evaluate the relationship noted above to determine if there is a conflict of interest that will preclude the Vendor from providing LIHWAP services to a designated locality(s). ("**Conflict of Interest**" is defined as a situation that has the potential to undermine the impartiality of a person in an official position because of the possibility of a clash between the person's self-interest and professional interest or public interest).
    - (2) The Vendor shall not serve as the vendor for a household in which they are a current recipient of assistance from the LIHWAP. (For these purposes only, "current" will be defined as during the present federal fiscal year).
    - (3) The Vendor shall not serve as the vendor for a dwelling/property that they own.

## **Article 4: Records**

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### **A. Records Management**

1. The Vendor must maintain an acceptable cost accounting system. The Vendor shall retain copies of all records, whether electronic or paper, that relate in any manner to this Agreement (the "**Records**") for a period of five (5) years after termination of this Agreement. In the event of litigation, claim, or audit findings, the retention period for the Records shall be for the period of five (5) years from the time of resolution of the litigation, claim, or audit findings.
2. Should the Vendor dissolve or otherwise terminate this Agreement without the capability of retaining the Records, as required herein, all Records from the Vendor shall be transferred to the County. The Vendor shall strictly adhere to the Records retention requirements set forth in this Agreement.

### **B. Access**

The Vendor shall provide full access of all Records to the County, representatives of the DEO, the Chief Financial Officer of the State of Florida, the Auditor General of the State of Florida, the Florida Office of Program Policy Analysis and Government Accountability, or representatives of the federal government, and their duly authorized representatives for the purposes of conducting audits, examinations, investigations, or making excerpts or transcriptions.

### **C. Auditing**

The County, the Orange County Comptroller, DEO, or the authorized designee of any of such foregoing government agencies, shall have the right to audit the Vendor's use of the federal funding assistance disbursed under this Agreement, from time to time, for compliance with the terms, conditions, and obligations set forth in this Agreement. The Vendor shall provide full access to all records, documents, and information, whether paper or electronic data, necessary to perform such audits.

### **D. Public Records**

All books, records, and accounts related to the performance of this Agreement shall be subject to the applicable public records provisions of Chapter 119, Florida Statutes. The Vendor agrees to, upon written request and within a reasonable time, provide the County with any records within the Vendor's possession that the County deems necessary to fulfil a public records request made in accordance with Chapter 119, Florida Statutes.

## **Article 5: Indemnification**

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Each party agrees to defend, indemnify and hold harmless the other party, its officials and employees from all claims, actions, losses, suits, judgments, fines, liabilities, costs and expenses (including attorneys' fees) attributable to its negligent acts or omissions, or those of its officials and employees acting within the scope of their employment, or arising out of or resulting from the indemnifying party's negligent performance under this Agreement. Nothing contained herein shall constitute a waiver of sovereign immunity or the provisions of Section 768.28, Florida Statutes. The foregoing shall not constitute an agreement by either party to assume any liability for acts, omissions and/or negligence of the other party.

## **Article 6: General Provisions (Alphabetical Order)**

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### **A. Assignments and Successors**

The parties deem the services to be rendered pursuant to this Agreement to be personal in nature. Each party binds itself and its partners, successors, executors, administrators, and assigns to the other party of this Agreement and to the partners, successors, executors, administrators, and assigns of such other party, in respect to all covenants of this Agreement. Neither party shall assign, sublet, convey, or transfer

its interest in this Agreement without the written consent of the other, which consent shall be in the sole determination of the party with the right to consent.

**B. Attorneys' Fees and Costs**

Unless otherwise expressly stated in this Agreement, the parties shall each bear their own costs, expert fees, attorneys' fees, and other fees incurred in connection with this Agreement and any action or proceeding arising out of or relating to this Agreement (an "Action").

**C. Construction and Representations**

Each party acknowledges that it has had the opportunity to be represented by counsel of such party's choice with respect to this Agreement. In view of the foregoing, and notwithstanding any otherwise applicable principles of construction or interpretation, this Agreement shall be deemed to have been drafted jointly by the parties and in the event of any ambiguity, shall not be construed or interpreted against the drafting party. Neither party has relied upon any representations or statements made by the other party to this Agreement which are not specifically set forth in this Agreement.

**D. Counterparts and Electronic Transmission of Signatures**

This Agreement may be executed in counterparts, both of which shall be deemed an original and which taken together shall constitute one agreement. Any counterpart may be delivered by any party by electronic transmission of the full Agreement as executed by that party to the other party as mutually agreed upon by the parties, and delivery shall be effective and complete upon completion of such transmission.

**E. Electronic Signatures**

Each party agrees that this Agreement and any other documents to be delivered in connection herewith may be electronically signed, and that any electronic signatures appearing on this Agreement or such other documents are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility.

**F. Governing Law**

This Agreement shall be considered as having been entered into in the State of Florida and shall be construed and interpreted in accordance with the laws of that state.

**G. Headings**

The headings or captions of articles, sections, or subsections used in this Agreement, including the Table of Terms and Provisions, are for convenience of reference only and are not intended to define or limit their contents, nor are they to affect the construction of or to be taken into consideration in interpreting this Agreement.

**H. Independent Contractor**

It is understood and agreed that nothing contained in this Agreement is intended to, or should be construed as, creating or establishing the relationship of copartners between the parties, or as constituting the Vendor as the agent, representative, or employee of the County for any purpose or in any manner whatsoever. The Vendor is to be, and shall remain, an independent contractor with respect to all services performed under this Agreement, and that any individuals hired, or performing services or work, pursuant to this Agreement shall be considered to be the employee of the Vendor for all purposes, including but not limited to for any worker's compensation matters.

**I. Jury Waiver**

Each party hereby irrevocably waives, to the fullest extent permitted by applicable law, any right that party does or might have to a trial by jury related to any Action.

**J. Non-Agent Agency**

The Board has not delegated to any County officer or employee the authority to appoint any agent on the County's behalf regarding the subject matter of this Agreement. Accordingly, nothing in this Agreement is intended to, or shall be construed as to, appoint the Vendor as an agent of the County. Additionally, no review or approval of the Vendor's services, invoices, reports, or records by the County may be construed as the County appointing the Vendor as an agent of the County.

**K. Remedies**

No remedy conferred upon any party in this Agreement is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any rights, power, or remedy hereunder shall preclude any other or further exercise thereof.

**L. Severability**

The provisions of this Agreement are declared by the parties to be severable. If any provision of this Agreement shall be held or made invalid by a court decision, statute, rule or otherwise, the remainder of this Agreement shall not be affected thereby.

**M. Signatory**

Each signatory below represents and warrants that he or she has full power and is duly authorized by their respective party to enter into and perform under this Agreement. Such signatory also represents that he or she has fully reviewed and understands the above conditions and intends to fully abide by the conditions and terms of this Agreement as stated.

**N. Survivorship**

Those provisions which by their nature are intended to survive the expiration, cancellation, or termination of this Agreement, including, by way of example only, the indemnification and public records provisions, shall survive the expiration, cancellation, or termination of this Agreement.

**O. Third-Party Claims**

Nothing in this Agreement, express or implied, shall confer to a third-party – or be construed as conferring to a third-party in any way – any legal or equitable right, benefit, claim, or remedy of any nature arising under or by reason of this Agreement. Moreover, the County and its employees and/or contractors shall be held harmless from liability to any third parties for claims asserted under this Agreement.

**P. Unlawful Discrimination; Civil Rights**

The Vendor, in performing its obligations under this Agreement shall not unlawfully discriminate against any worker, employee, applicant, customer, or member of the public because of race, color, ancestry, national origin, religion, sex, marital status, sexual orientation, gender expression/identity, age, or disability. The Vendor shall comply with Title VI and Title VII of the Civil Rights Act of 1964 (Section 42 USC 2000(d) and Section 42 USC 2000(e), respectively) and Section 504 of the Rehabilitation Act of 1973. Evidence of the Vendor's violation of the requirements set forth in this provision shall constitute a breach of this Agreement and could lead to termination of this Agreement by the County. Additionally, the Vendor shall comply with any and all applicable federal, state, and local anti-discrimination and Civil Rights laws, rules, and regulations.

**Q. Venue**

Each of the parties hereby irrevocably submits to the jurisdiction of any federal or state court of competent jurisdiction sitting in Orange County, Florida, regarding any Action, and further agrees that any Action shall be heard and determined by such federal or state courts. Each party hereby irrevocably waives, to the fullest extent it may effectively do so, the defense of an inconvenient forum to the maintenance of any Action in Orange County, Florida.

**R. Waiver**

No delay or failure on the part of any party to this Agreement to exercise any right or remedy accruing to such party upon the occurrence of an event of violation shall affect any such right or remedy, be held to be an abandonment thereof, or preclude such party from the exercise thereof at any time during the continuance of any event of violation. No waiver of a single event of violation shall be deemed to be a waiver of any subsequent event of violation.

**S. Written Modification**

No modification of this Agreement shall be binding upon any party to this Agreement unless it is reduced to writing and is signed by a duly authorized representative of each party to this Agreement. Notwithstanding the foregoing, the parties agree to renegotiate this Agreement if revisions of any applicable law or regulation make changes in this Agreement necessary.

**Article 7: Entire Agreement**

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This Agreement, and any documents incorporated, referenced, or attached to this Agreement, sets forth and constitutes the entire agreement and understanding of the parties with respect to the subject matter of this Agreement. In regards to such subject matter, this Agreement supersedes any and all prior agreements, negotiations, correspondence, undertakings, promises, covenants, arrangements, communications, representations, and warranties, whether oral or written, of any party to this Agreement.

[ SIGNATURES ON FOLLOWING PAGE ]

**LIHWAP VENDOR AGREEMENT SIGNATURE PAGE**

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement on the dates set forth below.

**ORANGE COUNTY, FLORIDA**

By: The Board of County Commissioners

By: \_\_\_\_\_  
Jerry L. Demings, Orange County Mayor

Date: \_\_\_\_\_

**ATTEST:** Phil Diamond, CPA, County Comptroller  
As Clerk of the Board of the County Commissioners

By: \_\_\_\_\_

Date: \_\_\_\_\_

**«VENDOR\_NAME»**

By: \_\_\_\_\_  
Signature

Printed Name: \_\_\_\_\_

Official Title: \_\_\_\_\_

Date: \_\_\_\_\_



ADMINISTRATION FOR  
**CHILDREN & FAMILIES**

330 C Street, S.W., Washington, DC 20201 | [www.acf.hhs.gov](http://www.acf.hhs.gov)

**SUPPLEMENTAL TERMS and CONDITIONS**

The **General Terms and Conditions** apply to all mandatory grant programs. These Supplemental Terms and Conditions are additional requirements applicable to the program named below.

By acceptance of awards for this program, the grantee agrees to comply with the requirements included in both the General and Supplemental Terms and Conditions for this program.

**Office of Community Services (OCS)**

**LOW INCOME HOUSEHOLD WATER ASSISTANCE PROGRAM (LIHWAP)**

Assistance Listing No. 93.568(B) (with modifications based on P.L. 116-260)

**APPLICABLE LEGISLATION, STATUTE, REGULATIONS**

1. The administration of this program is authorized under Section 533 Title V of Division H of the Consolidated Appropriations Act, 2021, Public Law No: 116-260. Consistent with legislative instructions, program requirements use existing processes, procedures, and policies currently in place to provide assistance to low-income households. In particular, OCS has closely modeled the Low Income Household Water Assistance Program's (LIHWAP) terms and conditions on assurances and requirements outlined in the Low Income Household Energy Assistance Act, 42 U.S.C. 8621 *et seq.*
2. The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards is located under 45 CFR Part 75. In accordance with 45 CFR 75.101 applicability, this program must comply with 45 CFR Part 75 in its entirety. No exceptions have been identified.
3. Additional applicable regulations and requirements can be found in the General Terms and Conditions for Mandatory: Formula, Block and Entitlement Grants.

**COST SHARING OR MATCHING (NON-FEDERAL SHARE) OF PROGRAM FUNDING**

4. The federal financial participation rate (FFP) is 100 percent for this program. The federal award provides funds for 100 percent of allowable, legitimate program costs.
5. There is no non-federal cost share/matching required for this program. Program funds for this program are awarded with a 100 percent FFP rate for program costs.

**FINANCIAL REPORTING AND REQUIREMENTS**

6. The OMB approved Financial Reporting form for this program is the SF-425 Federal Financial Report SF-425 Federal Financial Report. Grantees must track and report on LIHWAP funds separately from appropriated LIHEAP funds.

- a. This report is submitted annually and must be submitted no later than December 30, which is 90 days following the end of each federal fiscal year (FFY).
  - b. A first interim report is due 90 days following the end of FFY 2021.
  - c. A second interim report interim report is due 90 days following the end of FFY 2022.
  - d. A final report (cumulative, covering the entire project period) is due 3 months following the end of FFY 2023.
7. **Project Period.** The project period for this award is synonymous with the obligation period, as follows: from the date of the award through the end of FFY 2023 (September 30, 2023). Any federal funds not obligated by the end of the obligation period will be recouped by this Department.
8. **Liquidation Deadline.** All obligated federal funds awarded under this grant must be liquidated no later than 3 months after the end of the project period (i.e., December 31, 2023). Any funds from this award not liquidated by this date will be recouped by this Department.
9. The following are the grant/fiscal requirements based on modifications of existing LIHEAP policies and requirements:
- a. The grantees may use up to 15 percent of grant funds for planning and administering the funds under this award. The grantee will pay from non-federal sources the remaining costs of planning and administering the program under this award and will not use federal funds for such remaining cost. Administrative costs of the owners or operators of public water systems or treatment works that may be charged to this award, if any, are subject to this limitation and must be included together with the grantee's costs of planning and administration when calculating compliance.
  - b. The grantee will ensure that fiscal control and fund accounting procedures will be established as may be necessary to assure the proper disbursement of and accounting for federal funds paid to the state under this award, including procedures for monitoring the assistance provided under this award, and provide that the grantee will comply with the provisions of chapter 75 of title 31, United States Code (commonly known as the "Single Audit Act").
  - c. The grantee may expend funds for immediate expenses necessary for planning and administering the use of funds upon receipt of the award. However, prior to the expenditure of grant funds for any payments to owners or operators of public water systems or treatment works on behalf of low-income households, the grantee must submit an implementation plan for OCS review and acceptance in a format provided by OCS that will (a) include the eligibility requirements to be used by the state for each type of assistance to be provided under this grant, (2) describe the benefit levels to be used by the state, territory, or tribe for LIHWAP assistance, (3) describe any steps that will be taken to target assistance to households with high home water burdens, and (4) provide a plan of administration including a plan of oversight and monitoring of any subrecipient organizations comparable to the processes and procedures for comparable grant programs. Not later than May 30, 2021, OCS will make available a Model State and Tribal Implementation Plan format to be used in developing and submitting the implementation plan for review.

## **PROGRAM REPORTING AND REQUIREMENTS**

10. Grantees must track and report on LIHWAP program activities under this award separately from LIHEAP. The grantee must report annually on the following data elements, using an OMB-approved reporting format to be provided by OCS:
- a. the amount, cost, and type of water assistance provided for households eligible for assistance under this award;
  - b. the type of water assistance used by various income groups;



- c. the number and income levels of households assisted by this award;
  - d. the number of households that received such assistance and include one or more individuals who are 60 years or older, include a household member with a disability, or include young children (ages 5 and younger);
  - e. the impact of each grantee’s LIHWAP program on recipient and eligible households (e.g., amount of assistance to each household, and whether assistance restored water service or prevented shutoff); and
  - f. administrative information regarding local providers (if applicable), agreements with water utilities, recommendations, accomplishments, unmet needs and lessons learned.
11. The following are the program requirements, consistent with instructions in P.L. 116-260, Section 533 and consistent with existing program requirements for Low-Income Home Energy Assistance Program (LIHEAP) and other closely related programs:
- a. Federal funds awarded under this grant shall be used as part of an overall emergency effort to prevent, prepare for, and respond to the coronavirus, with the public health focus of ensuring that low-income households have access to safe and clean drinking water and wastewater services.
  - b. Funds will be used to provide assistance to low-income households—particularly those with the lowest incomes—that pay a high proportion of household income for drinking water and wastewater services. Assistance to households will be accomplished by providing funds to owners or operators of public water systems or treatment works to reduce arrearages of and rates charged to such households for such services. Grantees may use LIHWAP funding to cover arrearages arising at any time, including prior to this award.
  - c. Grantees shall, in carrying out programs funded with this grant, as appropriate and to the extent practicable, use existing processes, procedures, policies, and systems in place to provide assistance to low-income households, including by using existing programs and program announcements, application and approval processes.
    - i. Grant resources may be used to make payments only with respect to households in which one or more individuals are receiving the following:
      - 1. assistance under the State program funded under part A of title IV of the Social Security Act;
      - 2. supplemental security income payments under title XVI of the Social Security Act;
      - 3. food stamps under the Food Stamp Act of 1977;
      - 4. payments under section 415, 521, 541, or 542 of title 38, United States Code, or under section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978; or
      - 5. payments under the Low Income Home Energy Assistance Program (LIHEAP);

**or**
    - ii. households with incomes that do not exceed the greater of the following:
      - 1. an amount equal to 150 percent of the poverty level for such state; or
      - 2. an amount equal to 60 percent of the state median income;
      - 3. except that a state, territory, or tribe may not exclude a household from eligibility in a fiscal year solely on the basis of household income if such income is less than 110 percent of the poverty level for the state; but, the state, territory, or tribe may give priority to those households with the highest home water costs or needs in relation to household income.
  - d. The grantee will establish criteria and procedures for determining income eligibility comparable to established procedures and requirements for LIHEAP. The grantee will conduct outreach activities designed to ensure that eligible households, especially those with the lowest incomes,

- that pay a high proportion of household income for drinking water and wastewater services, are made aware of the assistance available under this title and any similar assistance available under the Community Services Block Grant program or through other emergency relief such as the Pandemic Emergency Assistance Fund and the U.S. Department of Treasury's Emergency Rental Assistance Program.
- e. The grantee will coordinate its activities under this title with similar and related programs administered by the Federal Government and such state, territory, or tribe, particularly low-income utility support programs such as LIHEAP, the Community Services Block Grant (CSBG), Supplemental Security Income (SSI), Temporary Assistance for Needy Families (TANF), the Social Service Block Grant, and the Emergency Rental Assistance Program.
  - f. The grantee will provide, in a timely manner, that the highest level of assistance will be furnished to those households that have the lowest incomes and the highest water costs or needs in relation to income, taking into account family size, except that the state, territory, or tribe may not differentiate in implementing this section between the households described in condition 11(c)(i) and 11(c)(ii) (above).
  - g. The grantee will establish policies, procedures, and benefit levels on behalf of households that prioritize continuity of water services, including prevention of disconnection and restoration water services to households for which water services were previously disconnected.
  - h. The grantee will provide funds to owners or operators of public water systems or treatment works ("owners or operators") to reduce arrearages of and rates charged to eligible households for such services. For all payments to owners or operators on behalf of individual households, the grantee must establish procedures to:
    - i. notify, or require the owner or operator to notify, each participating household of the amount of assistance paid on its behalf;
    - ii. ensure that the owner or operator will charge the eligible household, in the normal billing process, the difference between the actual amount due and the amount of the payment made by the LIHWAP grant;
    - iii. ensure that any agreement the grantee enters into with an owner or operator under this paragraph will contain provisions to ensure that no household receiving assistance under this grant will be treated adversely because of such assistance under applicable provisions of state, territorial or tribal law or public regulatory requirements;
    - iv. ensure that the provision of payments to the owner or operator remains at the option of the grantee, in consultation with local subgrantees; and
    - v. ensure that the owner or operator provides written reconciliation and confirmation on a regular basis that benefits have been credited appropriately to households and their services have been restored on a timely basis or disconnection status has been removed if applicable.
  - i. The amount of any home water assistance benefits provided under this program for the benefit of an eligible household shall not be considered income or resources of such household (or any member thereof) for any purpose under any State, Territorial, or Tribal law, including any law relating to taxation, public assistance, or welfare programs.
  - j. The grantee will not exclude income-eligible households (described above in condition 11(c)(ii)) from receiving home water assistance benefits.
  - k. The grantee will establish procedures to treat owners and renters equitably under the program assistance provided with these grant resources.

- l. The grantee will provide for timely and meaningful public participation in the development of a state, territory or tribe's LIHWAP implementation plan, such as publication and acceptance of comments via the grantee's website.
- m. The grantee will provide an opportunity for a fair administrative hearing to individuals whose claims for assistance under a LIHWAP plan are denied or are not acted upon with reasonable promptness. Administrative hearing opportunities will be comparable to and may utilize existing processes, procedures, and systems currently in place for the state, territory, or tribe's Low Income Home Energy Assistance grant.
- n. The grantee will be responsible for planning and prioritizing funds for households in communities throughout the state with the exception of households within tribal jurisdictions for which OCS has reserved a portion of LIHWAP funds. If the governing organization of any eligible tribal government or organization located within the state declines or is not able to successfully apply for available LIHWAP funds, the state grantee will then be responsible for including eligible households within the tribe's jurisdiction in its outreach and service coverage.
- o. LIHWAP grant funds may not be used by the grantee, or by any other person with which the grantee makes arrangements to carry out the purposes of this grant, for the purchase or improvement of land or the purchase, construction, or permanent improvement of any building or other facility.
- p. The grantee will permit and cooperate with federal investigations undertaken in accordance with the following procedures:
  - i. OCS shall, after adequate notice and an opportunity for a hearing conducted within the affected state, territory, or tribe, withhold funds from any grantee that does not utilize its allotment substantially in accordance with the terms and conditions.
  - ii. OCS shall review and respond in writing in no more than 60 days to matters raised in complaints of a substantial or serious nature that a grantee (or any person with which the grantee makes arrangements to carry out the purposes of the grant) has failed to use funds in accordance with these terms and conditions. Any violation of any one of the terms and conditions that constitutes a disregard of such assurance shall be considered a serious complaint.
  - iii. If OCS determines that there is a pattern of complaints from any state, territory, or tribe during the grant period, OCS shall conduct an investigation of the use of funds received under this award by the grantee in order to ensure compliance with terms and conditions.
  - iv. The HHS Office of the Inspector General (OIG) may conduct an investigation of the use of funds received under this title by a state, territory, or tribe in order to ensure compliance with the provisions of this title.
  - v. In the event of an investigation conducted by OCS, OIG, or another federal entity designated by OCS, the grantee shall make appropriate books, documents, papers, and records available to the Secretary or the Comptroller General of the United States, or any of their duly authorized representatives, for examination, copying, or mechanical reproduction on or off the premises of the appropriate entity upon a reasonable request thereof.
  - vi. In conducting any investigation under the procedures described above, OCS will not request any information not readily available to such state, territory, or tribe, or require that any information be compiled, collected, or transmitted in any new form not already available.

**REAL PROPERTY REPORTING**

12. Real Property Reports (SF-429s). The SF-429 Real Property forms are not applicable to this program. Purchase, construction, and major renovation are not an allowable activity or expenditure under this grant.

**EFFECTIVE PERIOD**

13. These program-specific Supplemental Terms and Conditions are effective on the date shown at the bottom of the pages of this document and will remain in effect until updated. They will be updated and reissued only as needed whenever a new program-specific statute, regulation, or other requirement is enacted or whenever any of the applicable existing federal statutes, regulations, policies, procedures, or restrictions are amended, revised, altered, or repealed.