

To: Board of County Commissioners **Date:** September 30, 2025

From: Natasha Lopez Perez **Re:** Withdrawal from the Withlacoochee
Assistant County Attorney Regional Water Supply Authority
(LR 25-468)

At the time of request, the WRWSA was subject to the original Interlocal Agreement dated February 23, 1977, as amended on September 18, 1984, and the rules set forth in Chapter 49C-1.013, Fla. Admin. Code. R. Those rules specified that if a county failed to pay its appropriation to the WRWSA, the delinquent county's voting status would be suspended as well as all other membership privileges, such as WRWSA participation in water supply studies, hydrologic investigations, and capital construction of facilities. See Fla. Admin. Code. R. 49C-1.013 (2011).

Fla. Admin. Code. R. 49C-1.013 (2011) was related to the WRWSA that was repealed in its entirety on June 29, 2014, and replaced by the Revised and Restated Interlocal Agreement dated January 14, 2014. The existing agreement contains no provision regarding failure to pay appropriations to the WRWSA or withdrawal from participation in the WRWSA.

LR 18-545: In 2018, the question was again pertaining to the County's withdrawal from participation in the WRWSA. At that time, the CAO stated that participation in the water supply authority was permissive rather than mandatory. And although membership was voluntary, the Interlocal Agreement dated January 14, 2014 ("Agreement"), did not specify the duration of the Agreement, the method for rescinding or terminating the Agreement, or the manner for a participating county to withdraw from the Agreement.

However, the CAO noted that, based on the absence of an expiration date or termination clause, the Agreement may be subject to termination upon reasonable notice and written notification to the participating counties. The CAO also noted the impacts to Hernando County that the Board of County Commissioner's ("Board") should consider.

III. ANALYSIS

FLORIDA STATUTE

Municipalities, counties, and special districts are encouraged to create multijurisdictional water supply entities or regional water supply authorities. *Fla. Stat. 373.701(3)*. Florida Statute allows (but does not require) counties, municipalities, or special districts to create regional water supply authorities by interlocal agreement. These agreements must be approved by the Secretary of Environmental Protection to ensure they align with the public interest and complies with the intent and purposes of the act.¹ *Fla. Stat. 373.713(1)*.

Participation in such authorities is encouraged but not mandatory. Accordingly, **Hernando County's participation in the Withlacoochee Regional Water Supply Authority ("WRWSA") is permissive, not mandatory.**

¹ Laws relating to environmental protection and control are found in Florida Statutes, Ch. 403.

Section 373.715, Florida Statutes, further elaborates on the governance and operational framework for regional water supply authorities (the “Authority”). It allows the Authority and its member governments to reconstitute the governance structure of such authorities through voluntary interlocal agreements with terms of at least 20 years. These agreements may include provisions relinquishing individual rights to develop potable water sources, establishing the Authority as the sole wholesale potable water supplier, and resolving disputes through alternative procedures. Importantly, Section 373.715(2), Florida Statutes, supersedes any conflicting provisions in other laws, emphasizing the exclusivity of water supply and withdrawal rights under these agreements.

Additionally, under Section 373.713(7), Florida Statutes, the WRWSA may include additional counties or municipalities upon adoption of a resolution by their governing bodies and approval by a majority vote of the Authority's voting members. This mechanism suggests that withdrawal or modification of membership may similarly require formal resolutions and compliance with the terms of the interlocal agreement.

Although the statute does not explicitly address withdrawal, it provides that the terms and conditions of participation in the Authority are governed by the interlocal agreement itself.

CASE LAW AND/OR ATTORNEY GENERAL OPINIONS

Similar to past requests, this Office found no case law or judicial opinion directly addressing the matter. However, at least two Attorney General Opinions have addressed county participation in regional planning councils:

- Attorney General Opinion 2017-08 (Nov. 29, 2017) concluded that the Florida Legislature created regional planning councils with mandatory county membership and assigned every county to a particular council under the Florida Regional Planning Council Act, currently codified as sections 186.501 through 186.513, Florida Statutes. Section 186.504, Florida Statutes, mandates county participation in the regional planning council; therefore, a county may not withdraw as a member and may not refuse its statutory obligation to participate. *See* AGO 2017-08.
- Attorney General Opinion 95-47 (Aug. 3, 1995) determined that Hernando County must pay dues to the Withlacoochee Regional Planning Council (“WRPC”). This opinion pointed out that, as an entity created pursuant to Chapter 163, Florida Statutes, the WRPC’s joint activities were controlled by a contract in the form of an interlocal agreement. While Chapter 163 recognizes that an interlocal agreement may specify its terms for rescission or termination by any participating public agency, the interlocal agreement in that instance did contain a provision allowing a county to unilaterally remove itself from the agreement’s operation or decline to contribute its share of the appropriation for the WRPC. *See* AGO 95-47. The opinion further explained that any modification of the interlocal agreement must be made in accordance with the procedures outlined within the agreement itself.

Statutory language is critical in these matters. The statute governing regional planning council mandates participation:

- “A regional planning council shall be created ...” *Fla. Stat. 186.504(1)* (emphasis added);
- “Membership on the regional planning council shall be as follows ...” *Fla. Stat. 186.504(2)* (emphasis added).

Thus, AGO 2017-08 correctly concluded that participation in the regional planning councils is mandatory.

In contrast, the statutes authorizing the creation of the regional water supply authorities (the “Authority”) by interlocal agreement do not mandate participation. That is, a county is not obligated to participate in it. This raises the question of whether a county that chooses to participate may later withdraw.

As explained in AGO 95-47, withdrawal from an interlocal agreement is governed by the agreement’s specific terms, as well as the statutory framework. Therefore, **a county's ability to withdraw depends on the specific provisions of the interlocal agreement it entered into when joining the WRWSA.**

TERMS OF INTERLOCAL AGREEMENT

Unfortunately, the Interlocal Agreement dated January 14, 2014 (“Agreement”) does not specify its duration, a method for rescission or termination, or the manner for a participating county to withdraw.

However, Section XIII of the Agreement states: “*This INTERLOCAL AGREEMENT may be amended in writing by the signatories in the same manner as this Agreement.*” This means that the WRWSA and its member counties can amend the Agreement to include such provisions. While doing so would not address the issue at this time, if questions regarding the Agreement’s duration, termination, or withdrawal are raised in the future, those matters could be formally addressed in the Agreement.

Although the Agreement does not contain such provisions, it remains a contract. And “[w]hen a contract does not contain an express statement as to duration, the court should determine the intent of the parties by examining the surrounding circumstances and by reasonably construing the agreement as a whole.” *City of Homestead v. Beard*, 600 So. 2d 450, 453 (Fla. 1992).² If it appears

² In *City of Homestead*, the City entered into an agreement with the Light Company. The City’s owned electric utility was exempt from the Florida Public Service Commission (PSC), but the Light Company was not. As a result, the Light Company was subject to regulations from the PSC who had to approve the agreement. The agreement—which contained no provisions regarding duration—was approved, but the customers whose service was being transferred because of the new agreement were dissatisfied. The City gave formal notice of its intent to terminate the agreement. In response, the Light Company filed suit arguing that the City was bound by PSC regulations. The Florida Supreme Court agreed with the Light Company, affirmed that PSC has jurisdiction, and held that by accepting the PSC order approving the agreement, the City submitted itself to the PSC’s regulatory authority. Although not applicable in this instance, the Florida Supreme Court explored what they would hold if the law of contracts were applied. The Florida Supreme Court stated that “[w]hen a contract does not contain an express statement as to duration, the court should determine the intent of the parties by examining the surrounding circumstances and by reasonably construing the agreement as a whole. If a period of duration can be inferred from the nature of a contract and the circumstances surrounding its execution, the contract is not terminable at will and a court should give effect to the manifest intent of the parties.” *Id.* at 453 (citations omitted). The Florida Supreme Court reasoned that “[i]f a party could terminate the

that no termination was within the contemplation of the parties, or their intent regarding termination cannot be ascertained, the contract is deemed terminable within a reasonable time depending upon the circumstances. *Sound City, Inc. v. Kessler*, 316 So. 2d 315, 318 (Fla. 1st DCA 1975).³ It may not be terminated by either party without first giving reasonable notice. *Id.*

As such, in the absence of an expiration date or rescission clause, the Agreement may be subject to termination upon giving “reasonable notice.” **The process for Hernando County to withdraw from the WRWSA may therefore require terminating the Agreement by providing written notice to Citrus, Marion, and Sumter Counties.**

ADDITIONAL CONSIDERATIONS AND IMPACT

A. The Secretary of Environmental Protection

However, as previously noted, the Secretary of Environmental Protection's oversight of interlocal agreements ensures that such agreements align with the public interest and environmental considerations. A county's withdrawal could potentially affect their ability to meet their objectives, particularly if the withdrawing county (Hernando) plays a significant role in the operations or water supply planning.

Accordingly, because the Agreement was approved by the Secretary of Environmental Protection pursuant to Section 373.713(1), Florida Statutes, a question could be raised about whether their approval is also required for withdrawal.

B. Geographical Change and Loss of Representation

Additionally, the Agreement currently is comprised of four (4) counties: Citrus County, Hernando County, Marion County, and Sumter County. Similar to Levy County's withdrawal in 1984, Hernando County's decision to terminate the Agreement and withdraw from the WRWSA would change the geographic area subject to the WRWSA. This change would require a new Agreement being drafted among the remaining participating counties.

agreement as soon as it was favorable to do so, the benefit to the public interest, as well as to the parties, would be impaired.” *Id.* at 454.

³ In *Sound City, Inc.*, the Buyer issued a check to the Seller with written language on the back indicating that the check was being accepted in full, that any future refusal to sell or deal are prohibited, and if violated, the Seller would be required to pay the Buyer damages and attorney's fees. The Seller endorsed the check but later informed the Buyer they would no longer deal with them. The Buyer filed suit. The Seller argued the language was insufficient because it was lacking provisions for duration. The First District Court of Appeals held that “in the absence of an express provision as to duration in a contract, the intention of the parties ... is to be determined from the surrounding circumstances ... [I]f it appears that no termination was within the contemplation of the parties, or that their intention with respect thereto cannot be ascertained, the contract will be terminable within a reasonable time depending upon the circumstances and that it may not be terminated by either party without first giving reasonable notice.” *Id.* at 318. The First District Court of Appeals reasoned that the well-established cardinal rule in contract construction is the intentions of the parties. *Id.* at 316. Therefore, “[t]ermination of a contract containing no durational provision does not, per se, constitute a breach of the contract” so long reasonable notice is given. *Id.* at 318.

Pursuant to Section V of the Agreement, a withdrawal by Hernando County would also result in a loss of representation. That is, the WRWSA Board is comprised of representatives of the member counties and cities, including Citrus, Hernando, Marion and Sumter counties, as well as the cities of Belleview, Brooksville, Bushnell and Crystal River. If Hernando County were to withdraw, both the Hernando County members and, potentially, the City of Brooksville member would lose their seats on the WRWSA Board.

C. Hernando County Code of Ordinances, Penalty, and Repeal

More importantly, on June 28, 1977, the Board approved Ordinance No. 77-7 relating to the WRWSA, which is codified as Chapter 28, Article III, Division 5, Sections 28-146 through 28-151 of the Hernando County Code of Ordinances. The ordinance provides that: “The county shall join and participate as a member in the Withlacoochee Regional Water Supply Authority.” Thus, the ordinance MANDATES Hernando County’s participation in the WRWSA, and further states: “Any violation of this division shall be an offense punishable as provided for in section 1-8 of this Code.” Hernando County Code § 28-151 (Fla. 2025).

Section 1-8 of the Hernando County Codes provides the applicable penalty:

Whenever in this Code any act is prohibited, or is made or declared to be unlawful, or an offense; or whenever in such Code the doing of any act is required, or the failure to do any act is declared to be unlawful, then such act or failure to act shall be denominated a misdemeanor for the purposes of this Code. Where no specific penalty is provided therefor, the violation of any such provisions of this Code shall be punished as described in Chapter 2, Article III as amended from time to time. Each day any violation of any provision of the Code shall continue, shall constitute a separate offense, unless otherwise provided.

Hernando County Code § 1-8 (Fla. 2025).

If the Board decides to withdraw from the WRWSA, the sections of the Code of Ordinances providing for the WRWSA must be repealed. This process requires preparing a repeal ordinance, publishing a notice, conducting a public hearing, and approving the repeal ordinance.

D. Impact Hernando County may have from WRWSA Withdrawal

In deciding whether to terminate the Agreement and withdraw from the WRWSA, the Board should also consider the impacts of such action on Hernando County.

As a party to the Agreement, Hernando County has a preferential right to purchase water from the WRWSA for use by the County. Fla. Stat. 373.713(5). The County is currently engaged in contracts and is receiving funds from the WRWSA for programs such as the Water Conservation Funding Assistance Program and the Regional Irrigation Evaluation Program (adopted on May 13, 2025).

- Water Conservation Funding Assistance Program: Funding from WRWSA supports major elements of local water resource protection and water conservation programs such as

Hernando County Student Education Program, community education, water conservation awareness campaigns, and water conservation incentive programs (customers only).

- Regional Irrigation Evaluation Program: Program aimed to reduce water usage by identifying and improving inefficient irrigation systems.
- Regional Water Supply Planning: WRWSA conducts regional water supply planning updates, with input from its member governments, including Hernando County.

The WRWSA is also working on the regional water supply plan, which affects Hernando County as water usage is reportedly expected to increase in the coming years. In addition, the Southwest Florida Water Management District (“SWFWMD”) has cooperative funding initiatives with the WRWSA. While SWFWMD funding is not strictly limited to members of a regional water supply authority, its policies do impose conditions and preferences that favor or require coordination with such authorities.

According to SWFWMD policy, for local governments that are members of a water supply authority, projects must be submitted *through* the Authority with the Authority retaining some element of ownership or control. For nonmember local governments that lie within the service area of a water supply authority (such as the WRWSA), they must obtain a written statement from WRWSA confirming that the proposed project is compatible with WRWSA’s regional plans. Thus, while SWFWMD funding is not exclusive to WRWSA members, membership streamlines eligibility and enhances access to funding by aligning with the district’s policy objectives for supporting regional solutions to regional water supply problems. As such, Hernando County’s withdrawal from the WRWSA could limit SWFWMD funding.

The WRWSA has also acquired funds, property and assets, including but not limited to the Charles A. Black Water Supply Facilities situated in Citrus County. The WRWSA has entered into numerous agreements and amendments with Citrus County pertaining to ownership, development, construction, and operation of the water supply facilities. According to these agreements, the property and all facilities and assets of the WRWSA located within Citrus County will automatically transfer to Citrus County if the WRWSA is dissolved for any reason. This reverter clause includes any funds accumulated in the Renewal and Replacement Reserve account established by the Water Supply Contract between WRWSA and Citrus County dated October 11, 2016.

IV. CONCLUSION

In summary, Hernando County participation in the WRWSA is permissive, not mandatory. Withdrawal would depend on:

- The terms of the Agreement;
- Compliance with statutory provisions, such as Section 373.713, Florida Statutes, and relevant sections of the Hernando County Code of Ordinances; and
- Consideration of public interest and environmental impacts.

Here, the Agreement is silent as to its duration, termination, or withdrawal process. Florida Courts have held that when a contract lacks an express duration, it may be terminated with reasonable notice, depending on the circumstances.

That said, withdrawal from the WRWSA may carry several significant implications—both legally and operationally. Prior to taking any action, Hernando County should carefully evaluate the potential legal, financial, and environmental consequences of withdrawal, as well as its impact on regional cooperation and water supply planning.

cc: Jeff Rogers, County Administrator
Toni Brady, Deputy County Administrator
Gordon Onderdonk, Utilities Director