

**BOARD OF COUNTY COMMISSIONERS
HERNANDO COUNTY, FLORIDA
PROFESSIONAL SERVICES AGREEMENT
NO. 23-RG00397/EK**

THIS Agreement made and entered into this 23rd day of April, 2024, by and between HERNANDO COUNTY BOARD OF COUNTY COMMISSIONERS, 15470 Flight Path Drive, Brooksville, Florida, 34604, a political subdivision of the State of Florida, hereinafter called the County and Kimley-Horn and Associates, Inc., 200 Central Avenue, Suite 600, St. Petersburg, FL 33701 duly authorized to conduct business in the State of Florida, hereinafter called the Professional.

WITNESSETH:

SECTION 1. The County does hereby retain the Professional to furnish certain services in connection with:

The creation of a Federal Highway Administration's Safe Streets for All Action Plan.

SECTION 2. The Professional and the County mutually agree to furnish, each to the other, the respective services, information and terms as described in Exhibit "A", attached hereto and made a part hereof.

Before any additions or deletions to the work described in Exhibit "A", and before undertaking any changes or revisions to such work, the parties shall negotiate any necessary cost changes and shall enter into a supplemental written Agreement covering such modifications and the compensation to be paid therefor.

Reference herein to this Agreement shall be considered to include any supplement thereto and the Request for Proposals that resulted in this Agreement.

Reference herein to County Administrator shall mean the Hernando County Administrator or its designee.

SECTION 3. The services indicated in Exhibit "A" to be rendered by the Professional shall be commenced, subsequent to the execution of this Agreement, upon written notice from the Hernando County Administrator and/or its designee and shall be completed within Fourteen (14) Months from the date of issuance of the Purchase Order and/or Notice to Proceed.

SECTION 4. The Professional agrees to provide Project Schedule progress reports in a format acceptable to the County, either monthly or at intervals established by the County. The County will be entitled at all times to be advised, at its request, of the status of work being done by the Professional and of the details thereof. Coordination shall be maintained by the Professional with representatives of the County. Either party to the Agreement may request and be granted a conference.

SECTION 5. In the event there are delays on the part of the County to the approval of any of the materials submitted by the Professional, or if there are delays occasioned by circumstances beyond the control of the Professional which delay the project schedule completion date, the County shall grant to the Professional, by "Letter of Time Extension," an extension of the Contract time equal to the aforementioned delays, provided there are no changes in compensation or scope of work except those changes that may be agreed upon between the parties hereto.

The Professional is responsible for ensuring at all times that sufficient Contract time remains within which to complete all services on the project. In the event there have been delays that would affect the project completion date, the Professional shall submit a written request to the County that identifies the reason(s) for the delay and the amount of time related to each reason. The County shall timely review the request and determine whether to grant all or part of the requested extension.

In the event Contract time expires and the Professional has not requested, or if the County has denied, an extension of the completion date, partial progress payments will be stopped on the date time expires. No further payment for the project will be made until a time extension is granted or all work has been completed and accepted by the County.

SECTION 6. The Professional shall maintain an adequate and competent professional staff within the State of Florida and may associate with specialists, sub-professionals, and/or other professionals for the purpose of its services hereunder without additional cost to the County. Should the Professional desire to utilize other specialists, sub-professionals, and/or professionals in the performance of the work, the Professional shall be responsible for satisfactory completion of all such specialists', sub-professionals' and/or other professionals' work and may not assign or transfer work under this Agreement to other specialists, sub-professionals, or professionals unless approved in writing by the County. It is agreed that only specialists, sub-professionals, and/or other professionals which have been approved by an authorized representative of the County will be used by the Professional. It is also agreed that the County will not, except for services so designated herein or as may be approved by the County, permit or authorize the Professional to perform less than the total Contract work with other than its own organization.

SECTION 7. All final plans, documents, reports, studies, and other data prepared by the Professional will bear the endorsement of a person in the full employ of the Professional and duly registered in the appropriate professional category.

a) After the County's acceptance of final plans and documents, the Professional shall provide to the County a reproducible form of the Professional's drawings, tracings, plans, and maps. Upon completion of construction by the Contractor, the Professional shall furnish acceptable field verified "record drawings" of full-size prints. The Professional shall signify, by affixing an appropriate endorsement on every sheet of the record sets that the work shown on the endorsed sheets was reviewed by the Professional. In addition to the aforementioned documents in this subparagraph, the Professional shall submit three (3) final sets of operation and maintenance manuals.

b) The Professional shall not be liable for the County's use of said plans, documents, studies, or other data for any purpose other than stated in the Scope of Services, Exhibit "A," of this Agreement.

SECTION 8. All tracings, plans, specifications, maps, surveys, field survey notes, and/or reports prepared or obtained under this Agreement shall be considered works made for hire and shall become the property of the County restricted to the terms of (7) above; and reproducible copies shall be made available upon County's request, at Professional's direct printing costs, to the County at any time during the period of this Agreement. The County will have the right to visit the site for inspection of the work and the drawings of the Professional at any time. Unless changed by written Agreement of the parties, said site shall be the address of the firm. Records of cost incurred under the terms of this Agreement shall be maintained and made available upon request of the County at all times during the period of this Agreement and for five (5) years after final payment is made. Copies of these documents and records shall be furnished to the County upon request at direct printing cost.

Records of cost incurred includes the Professional project accounting records, together with supporting documents and records of the Professional and all specialists, sub-professionals and/or other professionals performing work on the project, and all other records of the Professional and specialists, sub-professionals and/or other professionals considered necessary by the County for a proper audit of project costs.

Whenever travel costs are included in Exhibit B, the provisions of Section 112.061, Florida Statutes (2023), shall govern as to reimbursable costs.

The Professional shall furnish to the County at direct printing cost all final work documents, papers, and letters or any other such materials which may be subject to the provisions of Chapter 119, Florida Statutes (most recent edition), made or received by the Professional in conjunction with this project. Failure by the Professional to provide such records shall be grounds for immediate unilateral cancellation of the Agreement by the County.

SECTION 9. The Professional shall comply with all federal, state, and local laws and ordinances applicable to the work or payment thereof, and shall not discriminate on the grounds of race, color, religion, sex, or national origin in the performance of work under this Agreement.

SECTION 10. The County agrees to pay the Professional compensation as detailed in Exhibit B which is attached hereto and made a part hereof. Unless otherwise agreed to, this is a lump sum Contract. No additional fees or

expenses will be paid by the County. The County shall comply with the State of Florida LOCAL GOVERNMENT PROMPT PAYMENT ACT for all invoices and compensation.

SECTION 11. The Professional is employed to render a professional service only and payments made to the Professional are compensation solely for such services rendered and recommendations made in carrying out the work. In performing its professional services, the Professional will use that degree of care and skill ordinarily exercised, under similar circumstances, in accordance with sound engineering and professional consulting practices and principles of reputable members of its profession in the same locality at the time the services are provided. No warranty, express or implied, is made or intended by the Professional's undertaking herein or its performance of services, and it is agreed that the Professional is not a fiduciary with respect to the Client.

In performing construction phase services, the Professional may be requested to act as agent of County. The Professional's review or supervision of work prepared or performed by other individuals or firms employed by the County shall not relieve those individuals or firms of complete responsibility for the adequacy of their work.

SECTION 12. The County may terminate this Agreement in whole or in part at any time the interest of the County requires such termination.

- a) If the County reasonably determines that the performance of the Professional is not satisfactory, the County shall have the option of:
 - 1) immediately terminating the Agreement and paying the Professional for work reasonably and satisfactorily performed hereunder through the date of termination; or
 - 2) notifying the Professional of the deficiency requiring that the deficiency be corrected within a reasonable specified time, and terminating the Agreement at the end of the specified time if the Professional does not correct the deficiency. If the County terminates the Agreement, it shall pay the Professional for the work satisfactorily completed to such specified date.
- b) If the County requires termination of the Agreement for reasons other than unsatisfactory performance of the Professional, the County shall notify the Professional of such termination and specify the state of work at which time the Agreement is to be terminated, and the Professional shall be entitled to receive payment for all work reasonably, satisfactorily performed hereunder through the date of termination. An allowance for satisfactory work in progress but not yet completed shall be made.
- c) If the Agreement is terminated before performance is completed, the Professional shall be paid for work satisfactorily performed. Payment is to be on the basis of substantiated costs, not to exceed the percentage of the work performed.

SECTION 13. Adjustment of compensation and Contract time because of any major changes in the work that may become necessary or desirable as the work progresses shall be left to the County's absolute discretion. The parties shall commit such adjustment to a written supplemental agreement.

SECTION 14. All words used herein in the singular form shall extend to and include the plural. All words used in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include all genders.

SECTION 15. The Professional shall procure and maintain professional liability insurance as required in the Request for Proposals that resulted in this Agreement.

The Professional will also cause professionals, specialists and/or sub-professionals retained by Professional for the project to procure and maintain comparable professional liability insurance coverage. Before commencing the work, the Professional shall furnish the County a certificate(s) showing compliance with this paragraph (Exhibit C). *Said certificate(s) shall provide that policy(s) shall not be changed or canceled until thirty (30) days prior written notice has been given to the County; Hernando County is named as additional insured as to Commercial General Liability and Certificate Holder must read: Hernando County Board of County Commissioners.*

SECTION 16. The Professional warrants that he has not employed or retained any company or person other than a bona fide employee working solely for the Professional, to solicit or secure this Agreement, and that he has not paid or agreed to pay any person, company, corporation, individual or firm any fee, commission, percentage, gift, or

any other consideration, contingent upon or resulting from the award or making of this Agreement. It is understood and agreed that the term "fee" shall also include brokerage fee, however denoted.

For the breach of violation of Paragraph (16) the County shall have the right to terminate this Agreement without liability and, at its discretion, to deduct from the Contract price or otherwise recover the full amount of such fee, commission, percentage, gift, or consideration.

SECTION 17. Unless otherwise required by law or judicial order, the Professional agrees that it shall make no statements, press releases or publicity releases concerning the Agreement or its subject matter or otherwise disclose or permit to be disclosed any of the data or other information obtained or furnished in compliance with this Agreement, or any particulars thereof, during the period of the Agreement without first notifying the County and securing its consent in writing. The Professional also agrees that it shall not publish, copyright or patent any of the site-specific data furnished in compliance with this Agreement; it being understood that, under Paragraph 8 hereof, such data or information is the property of the County. This does not include materials previously or concurrently developed by the Professional for "In House" use.

SECTION 18. Standards of Conduct - Conflict of Interest - The Professional covenants and agrees that it and its employees shall be bound by the standards of conduct provided in Section 112.313, Florida Statutes (2023) as it relates to work performed under this Contract, which standards are hereby incorporated and made a part of this Contract as though set forth in full. The Professional agrees to incorporate the provisions of this paragraph in any subcontract into which it might enter with reference to the work performed.

SECTION 19. The County reserves the right to suspend, cancel or terminate the Agreement, without penalty, in the event one or more of the Professional's Corporate Officers is indicted or has a direct information issued against him for any crime arising out of or in conjunction with any work being performed by the Professional for or on behalf of the County under this Agreement. It is understood and agreed that in the event of such termination, reproducible copies of all tracings, plans, specifications, maps, and data prepared or obtained under this Agreement shall immediately be turned over to the County in conformity with the provisions of Paragraph 8 hereof. The Professional shall be compensated for its services rendered up to the time of any such termination in accordance with Paragraph 12 hereof. The County also reserves the right to terminate or cancel this Agreement in the event the Professional is placed in either voluntary or involuntary bankruptcy or if an assignment is made for the benefit of creditors. The County further reserves the right to suspend the qualifications of the Professional to do business with the County upon any such indictment or direct information. In the event that any such person is found not guilty or if the indictment or direct information is dismissed, the County Administrator shall immediately lift the suspension.

SECTION 20. Professional shall indemnify and hold harmless the County and its officers and employees from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of Professional and other persons employed or utilized by Professional in the performance of the Contract.

SECTION 21. All notices required to be served on the Professional shall be served by Registered or Certified mail, Return Receipt Requested, to Professional's address and all notices required to be served upon the County shall be served by Registered or Certified mail, Return Receipt Requested, addressed to the County Administrator, Hernando County Board of County Commissioners, 15470 Flight Path Drive, Brooksville, FL 34604.

SECTION 22. Hernando County reserves the right to audit the Professional's records relating to equipment, goods or services and expenditures related to this Agreement, whether express or implied. Such records include, but are not limited to: all books, records, and memoranda of every description pertaining to the work under this Agreement.

Hernando County further reserves the right to reproduce any of the documents mentioned in this section.

SECTION 23. Unless otherwise required by law, this Agreement shall be governed by and construed in accordance with the laws of the State of Florida. Venue for any dispute arising from this Agreement shall be litigated in the appropriate court in Hernando County, Florida, or the United States District Court, Middle District of Florida. IN ANY LITIGATION ARISING FROM THIS AGREEMENT, THE PARTIES WAIVE THE RIGHT TO A

JURY TRIAL AND EACH SHALL BEAR THEIR OWN COSTS AND ATTORNEYS' FEES.

SECTION 25. INTERPRETATION

This Agreement shall not be construed for or against any party hereto, without regard to which party is wholly or partly responsible for its drafting.

SECTION 26. TRAVEL

Engineering firms (Professional) requesting travel and subsistence reimbursement shall comply with Section 112.061, Florida Statutes (2023).

SECTION 27.

- Attachments:
- Exhibit "A" Scope of Services
- Exhibit "B" Compensation and Method of Payment
- Exhibit "C" Supplementary Conditions for Federal Grant Requirements
- Exhibit "D" Certificate of Insurance
- Exhibit "E" Notice to Proceed
- Exhibit "F" Request for Proposals

IN WITNESS WHEREOF, the parties hereto have caused these present to be executed, the day and year first above written.

(SEAL)



BOARD OF COUNTY COMMISSIONERS
HERNANDO COUNTY, FLORIDA

Attest: [Signature] D.C. Date: 4/23/2024
Douglas A. Chorvat, Jr., Clerk of Circuit Court

[Signature] Date: 4-23-2024
Elizabeth Narverud, Chair

Kimley-Horn and Associates, Inc.

Witness

[Signature]

By [Signature] 4/15/2024
Printed Name and Title of Professional
SCOTT W. GILNER, PE
SENIOR VICE PRESIDENT

EXHIBIT "A"
SCOPE OF SERVICES
FOR
CONTRACT No. 23-RG00397/EK

Project Understanding

Hernando County ("County") was awarded a Safe Streets and Roads for All (SS4A) Action Plan Grant in 2023. The County is seeking to develop an Action Plan to identify potential lower cost, high impact strategies that will improve roadway user safety within the entire County. According to the schedule in the grant agreement, the County intends to have a complete Action Plan by February 2025, with adoption by April 2025. Kimley-Horn ("Consultant") proposes the following scope of services to the County, consistent with the SS4A Action Plan components detailed by the Federal Highway Administration (FHWA).

Scope of Services

Task 1: Project Management and Administration

- **Kick-off Meeting:** The Consultant will arrange for an in-person kick-off meeting with up to four (4) Consultant staff and the County Project Manager and project team. This meeting will serve to clarify the lines of communication and other administrative details.
- **Project Management Meetings:** The Consultant will conduct project management and status meetings with County Staff on a monthly basis (up to eighteen (18) meetings) to discuss work in progress, work completed, and compliance with the delivery schedule. The project management meetings are anticipated to be completed as 1-hour in-person (4 meetings) or virtual meetings (14 meetings). Meeting minutes documenting the decisions made and action items will be prepared by the Consultant and submitted to the attending parties.
- **Project Schedule:** The Consultant will prepare and provide a project schedule showing project meetings, project deliverables, and the major milestones required by the County. The schedule shall be updated on a quarterly basis or when necessary due to significant changes in scheduled dates.
- **Invoicing and Progress Reports:** The Consultant will provide a project progress report which includes a schedule update. The monthly progress report shall be submitted to the County Project Manager. The CONSULTANT will submit progress reports with invoices in accordance with Hernando County's policies, procedures, and requirements.

Task 1 Deliverables:

- *Kick-off meeting, up to eighteen (18) project management meetings and meeting notes, project schedule, monthly invoices, and progress reports.*

Task 2: Zero Fatalities Goal

- **Best Practice Review:** The Consultant will conduct research on best practices in Zero Fatalities goal setting related to Hernando County's context.
- **Presentation and Resolution:** The Consultant will prepare a presentation of data and draft a Resolution establishing the zero fatalities goal to present to the County Commission for adoption for Hernando County. Based on review by County Commission and County Staff, the Consultant will develop an updated final Resolution (as required for an SS4A Safety Action Plan). The Consultant will attend up to one (1) Commission Meeting to present the Resolution.

Task 2 Deliverables:

- *Zero Fatalities Goal Presentation, and draft and final Resolution document.*

Task 3: Safety Analysis

- **Data Collection:** The Consultant will perform a safety analysis based on an evaluation of 5-year crash history for the County. Crash data will be obtained from Signal Four Analytics. Collection and a full review of crash data reports is considered additional services. Geospatial data will also be collected including readily available data for the roadway network, sidewalk and bike network, signalized intersections, school locations, points of interest, and activity-based travel demand.
- **Crash Trend Analysis:** The Consultant will analyze the crash data to demonstrate historical trends with respect to contributing factors and emphasis areas including but not limited to crash type, time of day, weather conditions, age of road user, and roadway characteristics. Crash trends will also be organized by roadway owner and maintaining agency (i.e., Hernando County, FDOT, etc.). The Consultant will review readily available past studies related to high crash areas and safety recommendations. The crash trend analysis will be summarized in tabular and graphical formats.
- **Safety Benefits:** Based on the crash and contributing factor trends, the Consultant will identify potential mitigation measures for the emphasis areas. The Consultant will identify the safety benefits of the mitigation measures based on methodologies in the Highway Safety Manual, including crash reduction factors, guidance from the Florida Strategic Highway Safety Plan (SHSP), and the FHWA Safe System Approach principles. The mitigation measures and estimated safety benefits will be documented in a Technical Memorandum for later inclusion in the final Action Plan.

Task 3 Deliverables:

- *Safety Analysis Technical Memorandum and Presentation*

Task 4: Engagement with the Public and Stakeholders

- **Public Engagement Events:** The Consultant will prepare for and conduct ten (10) in-person public information/engagement events (two (2) events will be held in each commission district). It is anticipated that events will be held at two phases during the development of the Action Plan – (1) to present the safety analysis findings in Task 3, solicit stakeholder and community goals and priorities, and (2) to present the projects and findings established in Task 7 and review a draft of the Action Plan before adoption. The in-person events are anticipated to be held in coordination with existing district/community/neighborhood events. The County will be responsible with noticing, scheduling, and coordinating space for the events.
- **Agency Coordination Meetings:** The Consultant will prepare for and conduct up to six (6) meetings with agency partners including Hernando/Citrus MPO, City of Brooksville, FDOT, or other County departments including fire and law enforcement. The purpose of the meetings is to coordinate and discuss agency priorities, policies, and projects that will support the development of the Action Plan.
- **Project Website and Survey:** To complement the in-person public engagement events, the Consultant will develop a project website. The project website will include project documents for community review, an interactive online map, and access to community surveys. The Consultant will develop up to two (2) online community surveys and one (1) interactive map. The surveys and interactive map will be developed to reach community members and garner feedback on safety priorities and concerns. Access to the project website will be posted and distributed through existing County channels.

Task 4 Deliverables:

- *Ten (10) public engagement events, Technical Memorandum with summary of engagement events and community input, up to six (6) agency coordination meetings, project website, two (2) surveys, and one (1) interactive map.*

Task 5: Addressing Equity

- **Transportation Disadvantaged Communities Mapping:** The Consultant will collect and use latest demographic data provided by FHWA to identify underserved communities in Hernando County. The purpose will be to understand where there is a need for transportation options. The Consultant will prepare maps and document underserved areas for reference and evaluation of safety projects identified in Task 7 and plan measurement criteria in Task 8.

Task 5 Deliverables:

- *Underserved Area Maps*

Task 6: Policies Review

- **Existing Plan Review:** The Consultant will review the County's current policies, guidelines, and standards that impact roadway safety or could improve roadway safety. As appropriate, the Consultant will incorporate safety-related findings of the previously completed studies and plans into the safety analysis and safety projects identified under this scope. The County will provide the relevant past studies and plans for the Consultant to access and review.
- **Policy Review Matrix:** The Consultant will develop one (1) matrix to identify gaps or inconsistencies between the existing plans and policies and the Zero Fatality goals of this project. The matrix will include recommendations to add new or revised policies, guidelines, and standards that impact roadway safety.

Task 6 Deliverables:

- *Existing Plans & Policy Review Matrix*

Task 7: Projects to Address Safety

- **Identifying Projects and Strategies:** Based on the crash trends and emphasis areas identified in Task 3, the Consultant will identify projects and strategies to address safety in the County. Projects will include up to ten (10) corridor locations and up to ten (10) intersection locations. In addition, the Consultant will identify strategies including systemic focus areas and countermeasures, enforcement strategies, and educational campaigns recommended to improve roadway safety in the County. The identified project lists and strategies will be provided to the County for review and comment.
- **Project Prioritization:** Based on coordination and feedback with the County, safety benefits identified in Task 3, and priorities identified during community and agency engagement in Task 4, the Consultant will develop prioritization criteria to identify high-priority projects. Up to five (5) high-priority intersections and five (5) high-priority segments will be selected for further review.
- **Site Visit:** The Consultant will complete a site visit at each of the ten (10) high-priority locations to review existing conditions and identify specific improvements to enhance safety.
- **Project Sheets and Maps:** The Consultant will develop project sheets for each high-priority location for a total of ten (10) project sheets. Project sheets will include the following information for each high-priority location:
 - map with project location and limits,
 - mitigation measures and strategies,
 - example photos and concepts to demonstrate the project recommendations,
 - planning level cost estimates, and
 - implementation strategies including actions, timing, and responsible parties.

Task 7 Deliverables:

- *Projects & Strategies List, project prioritization criteria, and project sheets (maps and planning level costs) for ten (10) high-priority locations.*

Task 8: Plan Measurement

- **Performance Metrics:** The Consultant, in coordination with the County, will develop performance metrics to evaluate the effectiveness and progress of the Action Plan goals. It is anticipated that the performance metrics and goals will be set based on consistency with the LRTP and the emphasis areas established in Task 3.
- **Monitoring Framework:** The Consultant will prepare a framework of document how the Action Plan will be evaluated and monitored. The framework may include but is not limited to timeframe for meeting performance metrics, updates to the Commission, and coordination with agency partners.

Task 8 Deliverables:

- *Performance Metrics and Monitoring Framework Technical Memorandum*

Task 9: Finalizing the Action Plan

- **Draft Action Plan:** The Consultant will prepare the Draft Action Plan to include the results of evaluations and the plan development steps detailed in the above tasks. The Consultant will submit the draft report for one (1) round of consolidated comments from Hernando County staff.
- **Final Action Plan:** The Consultant will revise and update the Draft Action Plan based on the comments provided and prepare a Final Action Plan.
- **Board Meeting Presentations:** The Consultant will prepare for and attend up to two (2) board meetings (BOCC and MPO) to present the Action Plan for acceptance/approval.

Task 9 Deliverables:

- *Draft and Final Action Plan, up to two (2) board meeting presentations*

Schedule

According to the schedule in the grant agreement, the County intends to have a complete Action Plan by February 2025, with adoption by April 2025. As described in the Scope of Services, the Consultant will prepare a schedule for the project tasks following notice to proceed. The schedule and completion dates will be agreed upon by the Consultant and the County.

EXHIBIT "B"
COMPENSATION AND METHOD OF PAYMENT
FOR
CONTRACT No. 23-RG00397/EK

Fee Estimate

The Consultant will perform the tasks described for a total lump sum fee below. Lump sum fees will be invoiced monthly based upon the overall percentage of tasks performed.

Task	Fee	Total Hours
Task 1: Project Management and Administration	\$36,599.40	187
Task 2: Zero Fatalities Goal	\$6,717.05	35
Task 3: Safety Analysis	\$45,643.00	258
Task 4: Engagement with the Public and Stakeholders	\$65,344.58	348
Task 5: Addressing Equity	\$6,353.60	40
Task 6: Policies Review	\$31,863.36	160
Task 7: Projects to Address Safety	\$61,975.77	324
Task 8: Plan Measurement	\$7,405.72	37
Task 9: Finalizing the Action Plan	\$26,813.88	138
Total	\$288,716.36	1,527

EXHIBIT "C"
SUPPLEMENTARY CONDITIONS FOR FEDERAL GRANT REQUIREMENTS
FOR
CONTRACT No. 23-RG00397/EK

1. **ACCESS TO RECORDS AND REPORTS** 49 U.S.C. § 5325(g); 2 C.F.R. part 200.334; 49 C.F.R. part 633

- A. **Record Retention.** The Contractor will retain and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, sub-agreements, leases, subcontracts, arrangements, other third-party agreements of any type, and supporting materials related to those records.
- B. **Retention Period.** The Contractor agrees to comply with the record retention requirements in accordance with 2 C.F.R. part 200.334. The Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of at not less than three (3) years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.
- C. **Access to Records.** The Contractor agrees to provide sufficient access to DOT and its contractors to inspect and audit records and information related to performance of this contract as reasonably may be required.
- D. **Access to the Sites of Performance.** The Contractor agrees to permit DOT and its contractors access to the sites of performance under this contract as reasonably may be required.

2. **CLEAN AIR AND WATER POLLUTION CONTROL** 2 C.F.R. part 200 Appendix II(G); 42 U.S.C. § 7401, et seq; 33 U.S.C. § 1251, et seq

The Clean Air Act and Federal Water Pollution Control Act requirements extend to all third-party contractors and their contracts at every tier and subrecipients and their subcontracts at every tier.

- A. The Contractor agrees:
1. It will not use any violating facilities;
 2. It will report the use of facilities placed on or likely to be placed on the U.S. EPA "List of Violating Facilities;"
 3. It will report violations of use of prohibited facilities to DOT; and
 4. It will comply with the inspection and other requirements of the Clean Air Act, as amended, (42 U.S.C. §§ 7401 – 7671q); and the Federal Water Pollution Control Act as amended, (33 U.S.C. §§ 1251-1387).

3. **CIVIL RIGHTS AND EQUAL OPPORTUNITY**

The Civil Rights requirements flow down to all third-party contractors and their contracts at every tier.

A. Hernando County is an Equal Opportunity Employer. As such, Hernando County agrees to comply with all applicable Federal civil rights laws and implementing regulations. Apart from inconsistent requirements imposed by Federal laws or regulations, Hernando County agrees to comply with the requirements of 49 U.S.C. § 5323(h)(3) by not using any Federal assistance awarded by DOT to support procurements using exclusionary or discriminatory specifications. Under this Agreement, the Contractor shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.

1. Nondiscrimination. In accordance with Federal Transportation Law 49, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, disability, or age. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements DOT may issue.
2. Race, Color, Religion, National Origin, Sex. In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e et seq., and Federal transportation 49, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. part 60-30, and Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. § 2000e (editorial notes), as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e (editorial notes). The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, or sex (including sexual orientation and gender identity). Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements DOT may issue.
3. Age. In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621-634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, and Federal Transportation Law 49, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements DOT may issue.
4. Disabilities. In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 et seq., the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., and Federal Transportation Law 49, the Contractor agrees that it will not discriminate against individuals on the basis of disability. In addition, the Contractor agrees to comply with any implementing requirements DOT may issue.
5. Promoting Free Speech and Religious Liberty. The Contractor shall ensure that Federal funding is expended in full accordance with the U.S. Constitution, Federal Law, and statutory and public

policy requirements: including, but not limited to, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination.

4. **ENERGY CONSERVATION** 42 U.S.C. 6321 et seq.; 49 C.F.R. part 622, subpart C

These requirements extend to all third-party contractors and their contracts at every tier and subrecipients and their subcontracts at every tier.

The contractor agrees to comply with mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

9.5. **GOVERNMENT-WIDE DEBARMENT AND SUSPENSION** 2 C.F.R. part 180; 2 C.F.R part 1200; 2 C.F.R. part 200.213; 2 C.F.R. part 200 Appendix II(I); Executive Order 12549; Executive Order 12689

Recipients, contractors, and subcontractors who enter into covered transactions with a participant at the next lower level, must require that participant to: (a) comply with subpart C of 2 C.F.R. part 180, as supplemented by 2 C.F.R. part 1200; and (b) pass the requirement to comply with subpart C of 2 C.F.R. part 180 to each person with whom the participant enters into a covered transaction at the next lower tier.

- A. **Debarment, Suspension, Ineligibility and Voluntary Exclusion.** The Contractor shall comply and facilitate compliance with U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 C.F.R. part 180. These provisions apply to each contract at any tier of \$25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the contract amount), and to each contract at any tier that must be approved by an DOT official irrespective of the contract amount. As such, the Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally funded contract and are not presently declared by any Federal department or agency to be:

1. Debarred from participation in any federally assisted Award;
2. Suspended from participation in any federally assisted Award;
3. Proposed for debarment from participation in any federally assisted Award;
4. Declared ineligible to participate in any federally assisted Award;
5. Voluntarily excluded from participation in any federally assisted Award; or
6. Disqualified from participation in ay federally assisted Award.

- B. By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

1. The certification in this clause is a material representation of fact relied upon by Hernando County. If it is later determined by Hernando County that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to Hernando County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

2. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. part 180, subpart C, as supplemented by 2 C.F.R. part 1200, while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

6. **LOBBYING RESTRICTIONS** 31 U.S.C. § 1352; 2 C.F.R. part 200.450; 2 C.F.R. part 200 appendix II(J); 49 C.F.R. part 20

The lobbying requirements mandate the maximum flow down pursuant to Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352(b)(5).

7. **NO FEDERAL GOVERNMENT OBLIGATION TO THIRD PARTIES**

The Recipient and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying Contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to the Recipient, Contractor or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying Contract. The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by the DOT. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

8. **PATENT RIGHTS AND RIGHTS IN DATA** 2 C.F.R. part 200, Appendix II (F); 37 C.F.R. part 401

The Patent Rights and Rights in Data requirements flow down to all third-party contractors and their contracts at every tier that meet the definition of a research-type project under 37 C.F.R. part 401.2.

- A. **Intellectual Property Rights.** This Project is funded through a Federal award with DOT for experimental, developmental, or research work purposes. As such, certain Patent Rights and Data Rights apply to all subject data first produced in the performance of this Contract. The Contractor shall grant Hernando County intellectual property access and licenses deemed necessary for the work performed under this Agreement and in accordance with the requirements of 37 C.F.R. part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by U.S. DOT. The terms of an intellectual property agreement and software license rights will be finalized prior to execution of this Agreement and shall, at a minimum, include the following restrictions: Except for its own internal use, the Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Contractor authorize others to do so, without the written consent of DOT, until such time as DOT may have either released or approved the release of such data to the public. This restriction on publication, however, does not apply to any contract with an academic institution. For purposes of this agreement, the term "subject data" means recorded information whether or not copyrighted, and that is delivered or specified to be delivered as required by the Contract. Examples of "subject data" include, but are not limited to computer software, standards, specifications, engineering drawings and associated lists, process sheets, manuals, technical reports, catalog item identifications, and related information, but do not include financial reports, cost analyses, or other similar information used for performance or administration of the Contract.

1. The Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use for “Federal Government Purposes,” any subject data or copyright described below. For “Federal Government Purposes,” means use only for the direct purposes of the Federal Government. Without the copyright owner’s consent, the Federal Government may not extend its Federal license to any other party.
 - a. Any subject data developed under the Contract, whether or not a copyright has been obtained; and
 - b. Any rights of copyright purchased by the Contractor using Federal assistance in whole or in part by the DOT.
2. Unless DOT determines otherwise, the Contractor performing experimental, developmental, or research work required as part of this Contract agrees to permit DOT to make available to the public, either DOT’s license in the copyright to any subject data developed in the course of the Contract, or a copy of the subject data first produced under the Contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of this Contract, is not completed for any reason whatsoever, all data developed under the Contract shall become subject data as defined herein and shall be delivered as the Federal Government may direct.
3. Unless prohibited by state law, upon request by the Federal Government, the Contractor agrees to indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. The Contractor shall not be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.
4. Nothing contained in this clause on rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.
5. Data developed by the Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the underlying Contract is exempt from the requirements herein, provided that the Contractor identifies those data in writing at the time of delivery of the Contract work.
6. The Contractor agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance.

9. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS 49 U.S.C. § 5323(l) (1); 31 U.S.C. §§ 3801-3812; 18 U.S.C. § 1001; 49 C.F.R. part 31

The Program Fraud clause extends to all third-party contractors and their contracts at every tier and subrecipients and their subcontracts at every tier. These requirements flow down to contractors and subcontractors who make, present, or submit covered claims and statements.

- A. The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the DOT assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.
- B. The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by DOT under the authority of 49 U.S.C. chapter 53, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(l) on the Contractor, to the extent the Federal Government deems appropriate.
- C. The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by DOT. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

10. **SAFE OPERATION OF MOTOR VEHICLES** 23 U.S.C. § 402; Executive Order No. 13043; Executive Order No. 13513; U.S. DOT Order No. 3902.10

The Safe Operation of Motor Vehicles requirements flow down to all third-party contractors at every tier.

- A. **Seat Belt Use.** The Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company-rented vehicles, or personally operated vehicles. The terms "company-owned" and "company-leased" refer to vehicles owned or leased either by the Contractor or Hernando County.
- B. **Distracted Driving.** The Contractor agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contractor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this agreement.

11. **TERMINATION** 2 C.F.R. part 200.339; 2 C.F.R. part 200 Appendix II(B)

For all contracts in excess of \$10,000, the Termination clause extends to all third-party contractors and their contracts at every tier and subrecipients and their subcontracts at every tier.

- A. **Termination for Convenience (Professional Contracts).** Hernando County, by written notice, may terminate this contract, in whole or in part, when it is in Hernando County's interest. If this contract is terminated,

Hernando County shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

B. Termination for Default (Service).

1. If the Contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension, or if the Contractor fails to comply with any other provisions of this contract, Hernando County may terminate this contract for default. Hernando County shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract.
2. If, after termination for failure to fulfill contract obligations, it is determined that the Contractor as not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of Hernando County.

- C. Waiver of Remedies for any Breach.** In the event that Hernando County elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this contract, such waiver by Hernando County shall not limit Hernando County's remedies for any succeeding breach of that or of any other covenant, term, or condition of this contract.

12. VIOLATION AND BREACH OF CONTRACT 2 C.F.R. part 200.326; 2 C.F.R. part 200 Appendix II(A)

The Violations and Breach of Contracts clause flow down to all third-party contractors and their contracts at every tier.

- A. Rights and Remedies of Hernando County.** Hernando County shall have the following rights in the event that Hernando County deems the Contractor guilty of a breach of any term under the Contract.

1. The right to take over and complete the work or any part thereof as agency for and at the expense of the Contractor, either directly or through other contractors;
2. The right to cancel this Contract as to any or all of the work yet to be performed;
3. The right to specific performance, an injunction or any other appropriate equitable remedy; and
4. The right to money damages.

- B. Rights and Remedies of Contractor.** Inasmuch as the Contractor can be adequately compensated by money damages for any breach of this Contract, which may be committed by Hernando County, the Contractor expressly agrees that no default, act or omission of Hernando County shall constitute a material breach of this Contract, entitling Contractor to cancel or rescind the Contract (unless Hernando County directs Contractor to do so) or to suspend or abandon performance.

13. FEDERAL CHANGES

Contractor shall at all times comply with all applicable DOT regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between Purchaser and

DOT, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

14. **EQUAL EMPLOYMENT OPPORTUNITY**

A. During the performance of this contract, the contractor agrees as follows:

1. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
2. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
3. The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
4. The contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
5. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
6. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

7. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
8. The contractor will include the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

15. **DISADVANTAGED BUSINESS ENTERPRISE (DBE)** 49 C.F.R. part 26

The DBE contracting requirements flow down to all third-party contractors and their contracts at every tier. It is the recipient's and prime contractor's responsibility to ensure the DBE requirements are applied across the board to all subrecipients/contractors/subcontractors. Should a subcontractor fail to comply with the DBE regulations, DOT would look to the recipient to make sure it intervenes to monitor compliance. Should a subcontractor fail to comply with the DBE regulations, DOT would look to Hernando County to make sure it intervenes to monitor compliance.

- A. The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 C.F.R. part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:
 1. Withholding monthly progress payments;
 2. Assessing sanctions;
 3. Liquidated damages; and/or
 4. Disqualifying the contractor from future bidding as non-responsible. 49 C.F.R. part 26.13(b).
- B. Prime contractors are required to pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment Hernando County makes to the prime contractor. 49 C.F.R. part 26.29(a)
- C. Finally, for contracts with defined DBE contract goals, each DOT Recipient must include in each prime contract a provision stating that the contractor shall utilize the specific DBEs listed unless the contractor obtains Hernando County's written consent; and that, unless Hernando County's consent is provided, the

contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE. 49 C.F.R. part 26.53(f)(1).

- D. It is the policy of Hernando County and the United States Department of Transportation (“DOT”) that Disadvantaged Business Enterprises (“DBE’s”), as defined herein and in the Federal regulations published at 49 C.F.R. part 26, shall have an equal opportunity to participate in DOT assisted contracts.

16. GOOD FAITH EFFORTS

- A. The Bidder or Proposer shall demonstrate the good faith efforts. Failure to include all requested information shall result in the Bid or Proposal being determined as nonresponsive to the DBE requirements.
- B. Hernando County will consider the Bidder’s/Proposer’s documented good faith efforts in determining responsiveness.