

**AGREEMENT BY AND BETWEEN
HERNANDO COUNTY, FLORIDA**

And

FLORIDA DEPARTMENT OF TRANSPORTATION

For

**THE IMPLEMENTATION OF MUNICIPAL SEPARATE STORM SEWER SYSTEM
(ms4) PERMIT**

THIS AGREEMENT is made and entered into, by and between Hernando County, a political subdivision of the State of Florida, hereinafter referred to as the "COUNTY", and the Florida Department of Transportation, a state agency, hereinafter referred to as "FDOT".

RECITALS

WHEREAS, the COUNTY and the FDOT are currently in the process of implementing new conditions for the NPDES MS4 permit #FLR04E017 (Cycle 5); and

WHEREAS, FDOT has agreed to fund public education with this permit on a cost reimbursement basis.

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the COUNTY and FDOT agree as follows:

**ARTICLE 1
Scope of Services**

The COUNTY shall provide the services described in EXHIBIT A, attached hereto and incorporated by reference herein.

**ARTICLE 2
Term of Agreement**

The Agreement shall be effective upon execution by both parties and shall expire on August 2, 2028 (the "Term") unless sooner terminated in accordance with this Agreement.

ARTICLE 3
Consideration and Limitation of Costs

For its performance under this Agreement, the COUNTY shall be reimbursed by FDOT in an amount not to exceed twenty-five thousand dollars (\$25,000) for services provided during the Term.

ARTICLE 4
Payment and Reporting Requirements

The standard financial provisions described in Exhibit B are attached and incorporated by reference herein.

ARTICLE 5
Maintenance and Review of Records

The COUNTY and its subcontractors providing any services required to be performed by the COUNTY under this Agreement shall maintain adequate records and accounts, including, but not limited to properly accounting for all FDOT funds received under this Agreement. Records shall be maintained for a period of three years from the date of final payment to the COUNTY under this Agreement or the termination of this Agreement, whichever occurs later.

ARTICLE 6
Conflict of Interest

The COUNTY represents that it presently has no interest, and shall acquire no such interest, financial or otherwise, direct, or indirect, nor engage in any business transaction or professional activity or incur any obligation of any nature which would impede or conflict in any manner with the performance of the scope of services required hereunder.

The COUNTY warrants to the FDOT that no gifts or gratuities have been or will be given to any FDOT employee or agent, either directly or indirectly, to obtain this Agreement.

ARTICLE 7
Governing Laws

This Agreement shall be governed by the laws, rules, and regulations of the State of Florida.

ARTICLE 8
Compliance with Applicable Laws

The COUNTY shall comply with the requirements of all applicable federal, state and local laws and the rules and regulations promulgated thereunder.

ARTICLE 9
Assignment

This Agreement may not be assigned nor subcontracted in whole or in part without the prior written consent of the FDOT.

ARTICLE 10
Waiver

A waiver of any performance or default by either party shall not be construed to be a continuing waiver of other defaults or non-performance of the same provision or operate as a waiver of any subsequent default or non-performance of any of the terms, covenants, and conditions of this Agreement. The payment or acceptance of fees for any period after a default shall not be deemed a waiver of any right or acceptance of defective performance.

ARTICLE 11
Severability

In the event any section, sentence, clause, or provision of this Agreement is held to be invalid, illegal or unenforceable by a court having jurisdiction over the matter, the remainder of the Agreement shall not be affected by such determination and shall remain in full force and effect.

ARTICLE 12
Third Party Beneficiaries/Independent Contractor

This Agreement is for the benefit of COUNTY and the FDOT. No third party is an intended beneficiary so as to entitle that person to sue for an alleged breach of this Agreement. COUNTY acknowledges and agrees that it is acting as an independent

contractor in performing its obligations hereunder and not as an agent, officer or employee of the FDOT.

ARTICLE 13
Modifications

This writing embodies the entire agreement and understanding between the parties hereto and there are no other agreements and/or understandings, oral or written, with respect to the subject matter hereof, that are not merged herein and superseded hereby. This Agreement may only be amended or extended by a written instrument executed by the COUNTY and FDOT expressly for that purpose.

ARTICLE 14
Notice

Any notices required or permitted to be given hereunder shall be sent by United States certified mail, return receipt requested, or by overnight delivery service or personal delivery with signature verification, to the attention of the following representatives of the parties:

COUNTY:

J. Scott Herring, P.E.
Hernando County Public Works
1525 East Jefferson Street
Brooksville, FL 34601

FDOT:

J. Scott Stevens
Maintenance Environmental Specialist
Florida Department of Transportation, District 7
11201 N. McKinley Drive, M.S. 1200
Tampa, FL 33612-6456

Any notice sent in accordance with this Article 14 shall be deemed given upon receipt. The act of refusal by a party of delivery of a notice sent in accordance with this Article 14 shall be deemed acceptance of such notice by such party.

ARTICLE 15
Access to Records

This COUNTY and FDOT shall comply with the requirements of Chapter 119, Florida Statutes, with respect to any documents, papers, and records made or received by the COUNTY or FDOT in connection with this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement by their authorized officers on the day, month and year first written.

**BOARD OF COUNTY COMMISSIONERS
HERNANDO COUNTY, FLORIDA**

Clerk

By: _____

Chairman

Approved for Form and Legal Sufficiency

Victoria Anderson

Assistant County Attorney

**FLORIDA DEPARTMENT OF
TRANSPORTATION, DISTRICT 7**

By: _____

PRINT NAME: _____

PRINT TITLE: _____

FDOT Legal Review

Attorney for FDOT

EXHIBIT "A"

SCOPE OF SERVICES NPDES PUBLIC EDUCATION

1.0 PURPOSE

Assist the Florida Department of Transportation, District Seven Maintenance Department in compliance with conditions of the National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4) Phase II generic permits issued by the Florida Department of Environmental Protection (FDEP) to FDOT for the FDOT- owned MS4 located in Hernando County.

This project requires Hernando County to facilitate the distribution of public educational materials and services to the community to address key permit requirements related to stormwater pollution source controls with the primary focus on public education and outreach, as well as public involvement and participation as described in in Section 4.3 of this scope of services. The project will be evaluated for effectiveness and this information will be submitted to FDOT in fulfillment of NPDES permit requirements. This program will provide FDOT and Hernando County with cost savings through coordination of educational materials selection and coordination of volunteers to place the materials as a result of the cooperative approach to meeting individual permit objectives.

2.0 QUALIFICATIONS

Hernando County has experience in a multitude of regional planning issues including transportation and public education. The County will provide in-kind services in the form of labor and expenses associated with coordinating and implementing the individual stormwater public education programs. The programs to be implemented are either regional in nature or will target cumulative portions (FDOT and County) of the MS4 systems.

3.0 OFFICE LOCATION

Hernando County's office is location at 1525 East Jefferson Street, Brooksville, Florida

4.0 SERVICES TO PROVIDED BY THE CONTRACTOR

- 4.1 Hernando County shall provide all supervision, labor, materials, supplies, equipment, and transportation to fulfill the requirements of the scope of work.
- 4.2 Hernando County shall implement the public education programs identified in the FDEP approved Notice of Intent to Use Generic Permit for Discharge of Stormwater from Phase II MS4. The County shall submit their Annual Report documentation for these permit elements to FDOT within 120 days of the end of the reporting year as indicated in the approved permit.
- 4.3 Hernando County shall ensure that all selected Public Education elements shall achieve the intent of the following NPDES Phase II Permit minimum control measures, as per Table 1 of DEP Form 62-621.300(7)(b):
 - 1.a. Public Education and Outreach
 - 2.a. Public Participation/Involvement
 - 3.d. Illicit Discharge Detection and Elimination

5.0 DEPARTMENT RESPONSIBILITIES

The Department will provide a Project Manager for administering the terms and conditions of this project who will be Mr. J. Scott Stevens, Maintenance Environmental Specialist, Department of Transportation, MS 7-1200, 11201 North McKinley Drive, Tampa, Florida 33612, Telephone (813) 975-6639. The Department reserves the right to change the Project Manager at any time.

6.0 BEGINNING AND LENGTH OF SERVICES

The services to be rendered by Hernando County shall commence on or about August 1, 2023 and shall be completed on or about August 2, 2028.

7.0 TERMINATION ACTION

Any necessary default action will be processed in accordance with Department of Management Services Rule 60A-1.006(3).

Exhibit B

Standard Financial Provisions

1. The DEPARTMENT agrees to compensate the COUNTY for services described in Exhibit A — Scope of Services, of the Interlocal Agreement. The method of Compensation is included as Exhibit B.
2. The COUNTY shall provide quantifiable, measurable, and verifiable units of deliverables. Each deliverable must specify the required minimum level of service to be performed and the criteria for evaluating successful completion. The Project, identified as Project Number FM 42174817208, and the quantifiable, measurable, and verifiable units of deliverables are described more fully in Exhibit A - Scope of Services.
3. Invoices shall be submitted by the COUNTY in detail sufficient for a proper pre-audit and post audit based on the quantifiable, measurable, and verifiable units of deliverables as established in Exhibit A — Scope of Services. Deliverables must be received and accepted in writing by the Department's Project Manager prior to payments.
4. Supporting documentation must establish that the deliverables were received and accepted in writing by the COUNTY and must also establish that the required minimum level of service to be performed based on the criteria for evaluating successful completion as specified in Exhibit A — Scope of Services was met.
5. There shall be no reimbursement for travel expenses under this Agreement.
6. Payment shall be made only after receipt and approval of goods and services unless advance payments are authorized by the Chief Financial Officer of the State of Florida under **Chapters 215 and 216, F.S.** If the DEPARTMENT determines that the performance of the COUNTY is unsatisfactory, the DEPARTMENT shall notify the COUNTY of the deficiency to be corrected, which correction shall be made within a time-frame to be specified by the DEPARTMENT. The COUNTY shall, within five days after notice from the DEPARTMENT, provide the DEPARTMENT with a corrective action plan describing how the COUNTY will address all issues of contract non-performance, unacceptable performance, and failure to meet the minimum performance levels, deliverable deficiencies, or contract non-compliance. If the corrective action plan

is unacceptable to the DEPARTMENT, the COUNTY shall be assessed a nonperformance retainage equivalent to 10% of the total invoice amount. The retainage shall be applied to the invoice for the then- current billing period. The retainage shall be withheld until the COUNTY resolves the deficiency. If the deficiency is subsequently resolved, the COUNTY may bill the DEPARTMENT for the retained amount during the next billing period. If the COUNTY is unable to resolve the deficiency, the funds retained may be forfeited at the end of the Agreement's terms.

7. The COUNTY should be aware of the following time frames. Inspection and approval of goods or services shall take no longer than 5 working days unless the bid specifications, purchase order, or contract specifies otherwise. The DEPARTMENT has 20 days to deliver a request for payment (voucher) to the Department of Financial Services. The 20 days are measured from the latter of the date the invoice is received, inspected, and approved.
8. If payment is not available within 40 days, a separate interest penalty at a rate as established pursuant to **Section 55.03(1), F.S.**, will be due and payable, in addition to the invoice amount, to the COUNTY. Interest penalties of less than one (1) dollar will not be enforced unless the COUNTY requests payment. Invoices that have to be returned to a COUNTY because of COUNTY preparation errors will result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the DEPARTMENT.
9. A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for vendors who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted at (850) 413 5516.
10. Records of costs incurred under the terms of the original Agreement and subsequent Amendments shall be maintained and made available upon request to the Department at all times during the period of the original Agreement and subsequent Amendments, and for 25 years after final payment is made. Copies of these documents and records shall be furnished to the department upon request. Records of cost incurred include the COUNTY general accounting records and the project records, together with supporting documents and records, of the contractor and all subcontractors performing work on the project, and all other records of the Contractor and subcontractors considered necessary by the DEPARTMENT for a proper audit of costs.

11. In the event this contract is for services in excess of \$25,000.00 and term for a period of more than 1 year, the provisions of Section 339.135(6)(a), F.S., are hereby incorporated:

"The Department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The Department shall require a statement from the Comptroller of the Department that such funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding 1 year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the Department which are for an amount in excess of \$25,000.00 and which have a term for a period of more than 1 year."

12. The Department's obligation to pay is contingent upon an annual appropriation by the Florida Legislature.

13. The COUNTY shall:

1. Utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the COUNTY during the term of the contract; and
2. Expressly require any contractors and subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.

14. The COUNTY agrees to comply with Section 20.055(5) F.S. and to incorporate in all subcontracts the obligation to comply with Section 20.055(5), F.S.