

**INTERLOCAL AGREEMENT BETWEEN
ESCAMBIA COUNTY, FLORIDA
AND THE CITY OF PENSACOLA RELATING TO
NPDES PERMIT SERVICES AND PERMIT FEES**

THIS AGREEMENT is made by and between Escambia County Florida, a political subdivision of the State of Florida (hereinafter referred to as the "County") with administrative offices located at 221 Palafox Place, Pensacola, Florida 32502 and the City of Pensacola, a municipal corporation created and existing under the laws of the State of Florida, (hereinafter referred to as "City") with administrative offices at 222 West Main Street, Pensacola, Florida 32502 (each being at times referred to as "Party" or "Parties").

WITNESSETH:

WHEREAS, the County and City have legal authority to perform general governmental services within their respective jurisdictions; and

WHEREAS, pursuant to §163.01, Florida Statutes, the County and City are authorized to enter into interlocal agreements and cooperatively utilize their powers and resources in the most efficient manner possible; and

WHEREAS, pursuant to 33 U.S.C. §1342 of the Clean Water Act (CWA), the United States Environmental Protection Agency (EPA) has developed regulations under the National Pollutant Discharge Elimination System (NPDES) permit program, which are implemented through federal regulations, including 40 C.F.R. §122.26; and

WHEREAS, pursuant to §403.0885, Florida Statutes, the Florida Department of Environmental Protection (FDEP) implements the stormwater element of the federal NPDES permitting program in accordance with the CWA and grants permits authorizing the discharge of stormwater into waters of the state in accordance with the approved Stormwater Management Programs (SWMPs), effluent limitations, monitoring requirements, and other provisions set forth in the relevant permit; and

WHEREAS, the County and the City, along with co-permittees, the Town of Century and the Florida Department of Transportation (FDOT), have been issued NPDES Permit #FLS000019-004 (hereinafter referred to as "Permit") by the Florida Department of Environmental Protection (FDEP); and

WHEREAS, the County and the City have approved the concept of intergovernmental cooperation to effectively manage stormwater runoff and to meet Permit requirements; and

WHEREAS, the County and the City have agreed upon a scope of services and a fee schedule for tasks related to the NPDES Permit requirements provided by the County; and

WHEREAS, it is in the best interest of the citizens of Escambia County that the County and the City enter into this Agreement setting forth the terms whereby the County shall perform certain NPDES Permit responsibilities on behalf of the City.

NOW THEREFORE, for and in consideration of the mutual covenants herein, the parties do hereby agree as follows:

Section 1. Recitals. The recitals contained in the preamble of this Agreement are declared to be true and correct and are incorporated into this Agreement.

Section 2. Responsibilities of the Parties.

2.1 The County agrees to provide the City with all applicable data, reports, records, and other documents related to the NPDES Permit requirements, as set forth in Exhibit A, attached hereto and incorporated herein. The County shall also remit payment for the annual NPDES Permit fee to the appropriate reviewing agencies as set forth in Exhibit A.

2.2 The City agrees to pay the County \$60,000.00 per year for services provided by the County during the term of this Agreement. County shall submit a request for payment on an annual basis reflecting the total amount due for services previously rendered with the appropriate supporting documentation.

Section 3. Miscellaneous Provisions.

3.1 Term and Termination. The term of this Agreement shall commence upon the Effective Date, as provided in paragraph 3.14, and run concurrent with the term of the NPDES Permit #FLS000019-004 unless earlier terminated as provided herein. This Agreement may be terminated by either party with or without cause upon providing ninety (90) days written notice to the other party; provided, however, that termination shall not affect the reimbursement of any costs then owing to the County by the City.

3.2 Liability. The parties hereto, their respective elected officials, officers, and employees shall not be deemed to assume any liability for the acts, omissions, or negligence of the other party. The City agrees to be fully responsible for its negligent acts or omissions or tortious acts which result in claims or suits against the County and agrees to be fully liable for any damages proximately caused by said acts or omissions. Escambia County, Florida, as a subdivision of the State of Florida as defined in §768.28, Florida Statutes, agrees to be fully responsible for its negligent acts or omissions or tortious acts which result in claims or suits against the City and agrees to be fully liable for any damages proximately caused by said acts or omissions. Nothing herein is intended to serve as a waiver of sovereign immunity by the City or the County and nothing herein shall be construed as consent by the County or the City to be sued by third parties in any matter arising out of this Agreement.

3.3 Records. The parties acknowledge that this Agreement and any related financial records, audits, reports, plans, correspondence, and other documents may be subject to disclosure to members of the public pursuant to Chapter 119, Florida Statutes, as amended. In the event a party fails to abide by the provision of Chapter 119, Florida Statutes, the other party may, without prejudice to any right or remedy and after giving that party, seven (7) days written notice, during which period the party fails to allow access to such documents, terminate this Agreement.

3.4 Assignment. The Agreement, or any interest herein, shall not be assigned, transferred, or otherwise encumbered, under any circumstances, by the parties, without the prior written consent of the other party.

3.5 All Prior Agreements Superseded.

(a) This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein,

and the parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement, that are not contained in this document. Accordingly, no deviations from the terms and conditions hereof shall be predicated upon any prior representations or agreements, whether oral or written.

(b) It is further agreed that no modification, amendment, or alteration in the terms and conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

3.6 Headings. Headings and subtitles used throughout this Agreement are for the purpose of convenience only, and no heading or subtitle shall modify or be used to interpret the text of any section.

3.7 Survival. All other provisions, which by their inherent character, sense, and context are intended to survive termination of this Agreement, shall survive the termination of this Agreement.

3.8 Interpretation.

a) For the purpose of this Agreement, the singular includes the plural and the plural shall include the singular. References to statutes or regulations shall include all statutory or regulatory provisions consolidating, amending, or replacing the statutes or regulations referred to. Words not otherwise defined that have well-known technical or industry meanings, are used in accordance with such recognized meanings.

b) References to persons include their respective permitted successors and assigns and, in the case of governmental persons, persons succeeding to their respective functions and capacities. This Agreement shall not be more strictly construed against either party hereto by reason of the fact that one party may have drafted or prepared any or all of the terms and provision hereof.

3.9 Severability. The invalidity or non-enforceability of any portion or provision of this Agreement shall not affect the validity or enforceability of any other portion or provision. Any invalid or unenforceable portion or provision shall be deemed severed from this Agreement and the balance hereof shall be construed and enforced as if this Agreement did not contain such invalid or unenforceable portion or provision.

3.10 Further Documents. The parties shall execute and deliver all documents and perform further actions that may be reasonably necessary to effectuate the provision of this Agreement.

3.11 Notices. All notices required or made pursuant to this Agreement by either party to the other shall be in writing and delivered by hand or by United States Postal Service, first class mail, postage prepaid, return receipt requested, addressed to the following:

Escambia County:
County Administrator
221 Palafox Place, Ste. 420
Pensacola, Florida 32502

City of Pensacola:
City Administrator
Post Office Drawer 12910
Pensacola, FL 32521

3.12 Governing Law. The Agreement shall be interpreted under and its performance governed by the laws of the State of Florida. The parties agree that any action relating to this

Agreement shall be instituted and prosecuted in the courts of Escambia County, Florida, and therefore, each party to this Agreement hereby waives the right to any change of venue.

3.13 No Waiver. The failure of either party to enforce at any time or for any period of time any one or more of the provisions of the Agreement shall not be construed to be and shall not be a waiver of any such provision or provisions or of its right thereafter to enforce each and every such provision.

3.14 Effective Date. This Agreement, after being properly executed by the parties named herein, shall become effective upon its filing with the Clerk of the Circuit Court of Escambia County, Florida. Escambia County shall be responsible for filing this document upon receipt of the executed Agreement from the City.

IN WITNESS WHEREOF, the duly authorized representatives of the parties have made and executed this Agreement on the respective dates under each signature:

ESCAMBIA COUNTY, FLORIDA, a political subdivision of the State of Florida acting through its duly authorized Board of County Commissioners signing by and through its Chairman.

By: _____
Jeff Bergosh, Chairman

Date: _____

BCC Approved: _____

ATTEST: Pam Childers
Clerk of the Circuit Court

By: _____
Deputy Clerk
(Seal)

Approved as to form and legal sufficiency.

By/Title: K. J. Hall, S.A.C.
Date: 5/14/18

CITY OF PENSACOLA, a Florida Municipal Corporation acting by and through its duly authorized City Council

By: _____
Ashton J. Hayward, III, Mayor

Date: _____

ATTEST:

By: _____
City Clerk

Legal in form and valid as drawn:

By: _____
City Attorney

EXHIBIT "A"
SCOPE OF SERVICES
NPDES MS4 PERMIT SERVICES FOR CITY OF PENSACOLA
PROVIDED BY ESCAMBIA COUNTY

The County and City have approved the concept of intergovernmental cooperation to effectively manage stormwater runoff and to meet their joint NPDES Permit requirements. Escambia County has developed the capability to perform some of the required tasks specified in the NPDES Permit. This Scope of Work describes the tasks that Escambia County will provide for the City.

The County will provide the City with all applicable data, reports, records, or other documents pertaining to the following tasks. The City will pay the County \$60,000 per year to compensate the County for services provided by the following tasks. Funds will be provided to the County in response to annual invoices from the County to the City for these services rendered.

1. County shall prepare the pollutant loading information for City to submit with the Year 3 annual report. City shall provide the County with stormwater infrastructure data to be incorporated into the Part V pollutant loading report (See Permit, Part V.A.1 and Part V.A.2, page 68);
2. County shall develop and implement the Assessment Program (See Permit, Part V.B, pages 68-70);
3. County shall perform required activities for water bodies with a TMDL and without a BMAP except for Part VIII.B.2(d). Activities include development of a TMDL Prioritization Plan (See Permit, Part VIII.B.2.a, page 77); development of a total maximum daily load (TMDL) Outfall Prioritization Plan, if required (See Permit, Part VIII.B.2.b, pages 77-78); and conducting TMDL monitoring, as required (See Permit, Part VIII.B.2.c, page 78);
4. County shall perform required activities for discharging into waters with a bacteria TMDL that does not have a BMAP. Activities include development and implementation of a Bacteria Pollution Control Plan, as required (See Permit, Part VIII.B.3, pages 79-80); and performing required reporting (See Permit, Part VIII.B.4, pages 79-80);
5. County shall develop and submit required NPDES Permit renewal applications. The County will coordinate with the City to incorporate permit renewal terms and conditions.
6. County shall submit required annual NPDES Permit fees on behalf of the City.