

**AMENDED WATER WELL PERMITTING DELEGATION AGREEMENT WITH  
FLORIDA DEPARTMENT OF HEALTH IN OSCEOLA COUNTY**

This Amended and Restated Water Well Permitting Delegation Agreement (“Agreement”) is made between the St. Johns River Water Management District ("District") and the Florida Department of Health (“FDOH-Osceola”) (collectively “the Parties”) this \_\_\_\_ day of \_\_\_\_\_, 202\_.

**WHEREAS:**

It is the desire of the Parties to enter into an amended Water Well Permitting Delegation Agreement pursuant to Rule 40C-3.035, Florida Administrative Code (“F.A.C.”) covering Osceola County; and

The District is a special taxing district created by Chapter 373, Florida Statutes (“F.S.”), and is charged with the duty to prevent harm to the water resources of the District, and to administer and enforce Chapter 373, F.S., and the rules promulgated thereunder; and

The Department of Environmental Protection ("Department") has delegated to the District the authority to implement Chapters 62-524, 62-531, 62-532, and certain portions of Chapter 62-555, F.A.C., related to the permitting and regulation of water wells; and

The District is authorized by Sections 373.046, 373.308, and 373.309, F.S., to delegate the duty to administer and enforce the statutes and rules regulating water well construction, repair, and abandonment to FDOH-Osceola; and

The lands within the boundaries of Osceola County are located within the jurisdictional boundaries of the District, and thus are subject to the rules, regulations, authority, and orders of the District under Chapter 373, F.S.; and

FDOH-Osceola has regulated water well construction under its current delegation agreement with the District, and FDOH-Osceola desires to continue to regulate water well construction; and

FDOH-Osceola has sufficient authority to exercise the powers delegated by this Agreement; and

FDOH-Osceola has demonstrated to the District that it has procedures in effect to protect the rights of permit applicants and persons whose rights may be substantially affected by the FDOH-Osceola's administration of the program; and

FDOH-Osceola has the requisite regulatory experience and the Parties desire to avoid any duplication or overlapping of permitting requirements between the District and FDOH-Osceola; and

The Parties desire to accomplish the regulation of water wells in Osceola County through delegation to FDOH-Osceola of the implementation of Part III of Chapter 373, F.S., and the applicable portions of Chapters 40C-3, 62-524, 62-531, 62-532, and 62-555, F.A.C., of the following types of wells:

- (1) less than 6 inches in diameter; and
- (2) not earth-coupled geothermal well systems (an underground heat exchanger that circulates transfer fluid within pressurized tubing installed and grouted in the earth).

THEREFORE, based upon the mutual consideration contained in this Agreement, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

**I. RESPONSIBILITIES OF FDOH-OSCEOLA**

1. FDOH-Osceola shall administer the program for regulation of water well construction, repair, and abandonment, compliance, and enforcement pursuant to Part III of Chapter 373, F.S., and Chapters 40C-3, 62-524, 62-531, 62-532, and 62-555, F.A.C., Osceola County, unless these wells are: (1) 6 inches or more in diameter; or (2) part of an earth-coupled geothermal well system.
2. FDOH-Osceola shall organize and train its staff as a functional unit and shall maintain sufficient staffing to fulfill its obligations under this Agreement.
3. FDOH-Osceola shall regulate water well construction, repair, and abandonment using the standards set forth in Chapters 40C-3, 62-524, 62-532, and 62-555, F.A.C.
4. Applications submitted to FDOH-Osceola for any water wells that exceed the authority delegated to FDOH-Osceola shall be forwarded to the District within five (5) business days of receipt. FDOH-Osceola shall notify the permit applicant that the District will process the application.
5. FDOH-Osceola shall use the permit application forms that the District provides or approves for use. FDOH-Osceola shall encourage water well contractors and other persons authorized by statute to construct, repair, or abandon water wells to utilize the District's e-Permitting system when applying for well permits.
6. FDOH-Osceola shall use the District's e-Permitting system to issue water construction, repair, and abandonment permits.

7. FDOH-Osceola shall use the well completion report forms that the District provides or approves for use. FDOH-Osceola shall ensure that a properly completed well completion report is submitted by the water well contractor or other person authorized by statute to construct, repair, or abandon a water well. FDOH-Osceola shall encourage water well contractors and other persons authorized by statute to construct, repair, or abandon water wells to utilize the District's e-Permitting system when submitting water well completion reports.

8. FDOH-Osceola shall enter all paper copies of well completion reports received by FDOH-Osceola into the District's e-permitting system.

9. FDOH-Osceola shall implement and maintain an effective compliance program, in cooperation with the District, to ensure compliance with Chapters 40C-3, 62-524, 62-531, 62-532 and 62-555, F.A.C. The compliance program shall include, but is not limited to, investigation of all unpermitted and unlicensed activities, and monitoring of compliance with well construction standards pursuant to Chapters 40C-3, 62-524, 62-532, and 62-555, F.A.C., and permit conditions to the extent of its delegation under paragraph I. As part of the compliance program:

FDOH-Osceola shall report all unlicensed activities to the District and work

- a. together with the District for any enforcement action taken by the District against the unlicensed individual.
- b. FDOH-Osceola shall conduct random water well construction, repair, and abandonment inspections of wells permitted by FDOH-Osceola in Osceola County, sufficient to assure compliance; and
- c. The District may conduct audits of FDOH-Osceola's compliance and enforcement programs, as the District deems appropriate. FDOH-Osceola agrees to fully cooperate with the District's auditing.

Nothing in this Agreement will limit the independent enforcement authority of either party.

10. FDOH-Osceola shall maintain all permit application-related and compliance-related records received or generated by FDOH-Osceola in accordance with Chapter 119, F.S. (the Florida Public Records Law).

11. FDOH-Osceola shall establish a schedule of permit fees, which shall not exceed the cost to FDOH-Osceola for permit processing, and for monitoring and inspecting wells for compliance with the permit and enforcement.

12. FDOH-Osceola may not further delegate its authority under this Agreement.

13. FDOH-Osceola shall withhold issuance of any water well construction, repair, or abandonment permit if the application indicates, or if FDOH-Osceola staff verifies, that the proposed or existing well requires a District consumptive use permit, until such time as the District has notified FDOH-Osceola in writing that the water well permit can be issued. FDOH-Osceola shall notify the District by email upon receipt of an application for the construction, repair, or abandonment of any water well, regardless of diameter, if the proposed or existing water well will require a District consumptive use permit.

## **II. RESPONSIBILITIES OF THE DISTRICT**

1. The District shall issue permits for the construction, repair, and abandonment of all wells 6 inches or more in diameter.

2. The District shall issue permits for the construction, repair, and abandonment of all wells associated with earth-coupled geothermal well systems.

3. The District shall take enforcement on all permits, except as described in Part III Section 1 of this Agreement.

4. While this Agreement is in effect, the District shall not enter into any agreement regarding the implementation of Chapter 40C-3, F.A.C., with any other local government within the jurisdictional boundaries of the Osceola County without the written agreement of FDOH-Osceola.

5. The District shall provide FDOH-Osceola with support necessary for FDOH-Osceola's implementation of the Chapter 40C-3, F.A.C., program. This support shall include:

- a. Providing technical assistance and training as necessary to enable an accurate and consistent review of water well construction, repair, and abandonment permit applications or to resolve compliance problems and enforcement issues;
- b. Providing FDOH-Osceola with information regarding the District's current technical and administrative procedures for review of water well permit applications, including the coordination of activities regarding Chapter 40C-2, F.A.C., which may affect well permitting;

- c. Providing training and technical assistance to FDOH-Osceola staff on the District's e-Permitting System;
- d. As deemed appropriate by the District, provide technical support and assistance with the resolution of significant technical and policy disputes that cannot otherwise be resolved despite good faith efforts by FDOH-Osceola and the water well contractor; and
- e. Reporting the appropriate water well contractor enforcement information to the Statewide Clearinghouse.
- f. Assist DOH-Osceola with providing training and meetings for Florida Licensed Water Well contractors.

6. The District shall take enforcement action against licensed water well contractors as set forth in Chapter 62-531, F.A.C, and implemented by the Water Well Contractor Disciplinary Guidelines and Citations Dictionary (June 22, 2014), which is incorporated by reference in Rule 40C-3.036, F.A.C. Where appropriate, and as described in Part III of Chapter 373, F.S., the District shall comply with the due process requirements of Chapter 120, F.S.;

7. The District shall be responsible for administering examinations and issuing licenses for water well contractors who construct, repair, or abandon wells within Osceola County. The District shall be responsible for placing restrictions on a water well contractor's license based on the accumulation of license points.

8. The District and contractors working for the District shall not be required to obtain a permit from FDOH-Osceola when constructing, repairing, or abandoning a water well within Osceola County. The District will inform FDOH-Osceola of its intention to perform these activities within Osceola County and shall file a well completion report with FDOH-Osceola upon completion of the work.

### **III. Compliance**

- 1. As part of the regulation of water well construction, repair, and abandonment, FDOH-Osceola shall:
  - a. Verify compliance with water well construction, repair, and abandonment standards pursuant to Chapters 40C-3, 62-524, 62-532, and 62-555, F.A.C., and permit conditions; and

- b. Investigate and report all water well contractors and unlicensed persons who unlawfully have engaged in water well contracting to the District so that the District may pursue appropriate enforcement action; and
  - c. Issue a warning letter when unable to resolve a water well construction, repair, or abandonment violation. When the violation is resolved before the issuance of a Notice of Violation (NOV), FDOH-Osceola shall issue a compliance letter.
2. As part of the regulation of water well construction, repair, and abandonment, the District shall:
    - a. Issue a Notice of Violation (NOV), pursuant to Section 373.333(2), F.S., for unresolved compliance actions regarding water well construction, repair, or abandonment violations; and
    - b. When a violation is resolved after the issuance of a Notice of Violation (NOV), the District shall issue a compliance letter.
    - c. Upon request, assist FDOH-Osceola with the identification of well construction, repair, and abandonment violations and rule interpretation; and
    - d. Report the appropriate water well contractor enforcement information to the Statewide Clearinghouse.

#### **IV. DISTRICT/FDOH-OSCEOLA COORDINATION**

1. The FDOH-Osceola's Program Administrator or designee and the District's Well Construction Permitting Program Manager or designee shall coordinate as needed on this program to ensure consistent and effective implementation of Chapter 40C-3, F.A.C.
2. The District staff and FDOH-Osceola staff shall meet as needed to review and approve new or modified water well permitting procedures and to promote regulatory consistency. Frequency of such meetings shall be determined by mutual agreement of the Parties. New or modified regulatory procedures must receive District approval prior to implementation.
3. The District may assist FDOH-Osceola in the review of any water well construction, repair, or abandonment permit application that FDOH-Osceola is reviewing. In cooperation with

FDOH-Osceola, the District may also conduct inspections of water wells permitted by FDOH-Osceola.

**V. TERMINATION**

Either party may terminate this Agreement upon 120 days prior written notice to the other party. Not less than 60 days prior to the effective date of termination of the Agreement, FDOH-Osceola shall transfer all pending permit applications to the District and shall also provide comments on the appropriate course of action for any pending compliance activities.

**VI. EFFECTIVE DATE**

This Agreement shall become effective upon the effective date of the District's rule incorporating this Agreement by reference.

**VII. EXCLUSIVE AUTHORITY**

Nothing in this Agreement shall be construed to impede, interfere with, or supersede the exclusive authority of the District under Part II of Chapter 373, F.S., to regulate the consumptive use of water, and no delegation of that exclusive District authority is granted to FDOH-Osceola. FDOH-Osceola agrees not to regulate the consumptive use of water in any manner.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

ST. JOHNS RIVER WATER MANAGEMENT DISTRICT

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Michael A. Register, P.E., Executive Director

FLORIDA DEPARTMENT OF HEALTH  
IN OSCEOLA COUNTY

*Vianca McCluskey*  
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Vianca McCluskey, Administrator