

# **MEMORANDUM OF AGREEMENT**

BETWEEN

FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION

AND

Hernando County

FOR

Jenkins Creek Assessment and Enhancement

FWC Agreement No. #24284

This Memorandum of Agreement (MOA) is entered into by and between the Florida Fish and Wildlife Conservation Commission, whose address is 620 South Meridian Street, Tallahassee, Florida 32399-1600, hereafter "Commission" or "FWC," and Hernando County, whose address is 16161 Flight Path Dr. Brooksville, FL 34604, hereinafter "County," collectively, "Parties".

The purpose of this Memorandum of Agreement is to establish an agreement between the parties to provide mutually beneficial support in their respective efforts to complete the project known as Jenkins Creek Assessment and Enhancement;

## **Section 1. RESPONSIBILITIES OF THE PARTIES**

The parties hereby agree to accept and undertake the following responsibilities assigned to them under this Agreement:

### **A. RESPONSIBILITIES OF THE COMMISSION.**

- A.1. The Commission will assess the biological needs for aquatic wildlife access enhancement and habitat restoration needs at Jenkins Creek.
- A.2. The Commission will include Hernando County in management decision making resulting from biological assessment of the Jenkins Creek system.
- A.3. The Commission will collaborate with Hernando County to co-manage the project through all phases including engineering, design, permitting, and construction if determined necessary during biological assessment and monitoring.
- A.4. The Commission will procure and provide oversight of any contractors required to complete project engineering, design and permitting if habitat enhancement or restoration is deemed beneficial through continued biological assessment and monitoring.
- A.5. The Commission will provide oversight of any contractors required to complete project construction as per the design plans and permits developed and secured in A.4. above.

## **B. RESPONSIBILITIES OF THE COUNTY .**

- B.1. The County will ensure that the Commission and its contractors and agents have access, as needed, to the project areas.
- B.2. The County will identify a project manager to work with the Commission project manager on this effort.
- B.3. The County will provide co-management of the project with the Commission through review and collaboration on design, scope of work, any necessary permits, and construction that may be determined necessary.
- B.4. The County will assist the Commission with stakeholder outreach and engagement related to this project through all phases and incorporate Commission contribution recognition in any related outreach materials developed as part of this effort.

## **Section 2. TERM OF THE AGREEMENT**

It is understood and agreed that the relation established by this Agreement is meant to be for the benefit of both parties, and that this Agreement shall be effective on the date of execution by both parties and shall remain in effect until June 30, 2028, unless otherwise terminated, suspended or modified in writing by an appropriate amendment executed by both parties.

## **Section 3. TERMINATION**

Either party may terminate this Agreement by giving written notice to the other party specifying the termination date, by certified mail, return receipt requested, at least 30 days prior to the termination date specified in the notice.

## **Section 4. NOTICES**

All notices shall be delivered to the parties at the following addresses (or such changed address or addressee as may be provided by notice). A notice or other communication shall be deemed received by the addressee on the next business day after having been placed in overnight mail with the U. S. Postal Service, or other overnight express service such as FedEx, UPS, or similar service. Notices sent by means other than overnight delivery shall be deemed received when actually received by the addressee:

### **COMMISSION CONTACT INFORMATION:**

Anna Laws  
Biological Scientist  
Florida Fish and Wildlife Conservation  
Commission

### **Insert appropriate designation CONTACT INFORMATION:**

Carla S. Burrmann  
Aquatic Services/Waterways Manager  
Hernando County  
16161 Flight Path Drive

10247 N Suncoast Blvd  
Crystal River, FL 34428  
352-460-7332  
Anna.Laws@MyFWC.com

Brooksville, FL 34604  
352-238-2918  
cburrmann@hernandocounty.us

## **Section 5. PUBLIC RECORDS**

All records in conjunction with this Agreement shall be public records in accordance with the laws applicable to the parties.

## **Section 6. LIABILITY**

Each party hereto agrees that it shall be solely responsible for the negligent or wrongful acts of its employees and agents. However, nothing herein shall constitute a waiver by either party of sovereign immunity or statutory limitations on liability, including but not limited to sovereign immunity of the State of Florida beyond the waiver provided for in section 768.28, F.S., as amended.

## **Section 7. STATE REQUIRED CLAUSES.**

- A. Non-discrimination. No person, on the grounds of race, creed, color, national origin, age, sex, or disability, shall be excluded from participation in, be denied the proceeds or benefits of, or be otherwise subjected to discrimination in performance of this Agreement.
- B. Prohibition of Discriminatory Vendors. In accordance with Section 287.134, Florida Statutes, an entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.
- C. Public Entity Crimes. In accordance with Section 287.133(2)(a), F.S., a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not perform work as a grantee, contractor, supplier, subcontractor, consultant or by any other manner under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, F.S., for Category Two, for a period of 36 months from the date of being placed on the convicted vendor list.
- D. Legislative appropriation. For contracts whose term extends beyond the State fiscal year in which encumbered funds were appropriated, the State of Florida's performance is contingent upon an annual appropriation by the Legislature.

**Section 8. NON-ASSIGNMENT**

This Agreement may not be assigned in whole or in part without the written approval of all parties. Any such assignment or attempted assignment shall be null and void.

**Section 9. SEVERABILITY AND CHOICE OF VENUE**

This Agreement has been delivered in the State of Florida. Florida law governs this Agreement, all agreements arising under or out of this Agreement, and any legal action or other proceeding of any kind designed to resolve a dispute that arises out of or relates to this Agreement. Wherever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law. If a court or other tribunal finds any provision of this Agreement unenforceable as written, the unenforceable provision(s) shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision and the remaining provisions of this Agreement. The Parties have selected the Second Judicial Circuit in Leon County, Florida, as the mandatory and exclusive forum for resolving any dispute, in law or equity, that arises out of or relates to the Parties' transactions. By signing this Agreement, the County affirms that the County considers the Second Judicial Circuit to be a fair and convenient forum for any legal action or other proceeding of any kind designed to resolve such a dispute. The County will not initiate in any other forum a legal action or other proceeding to which this provision applies.

**Section 10. NO THIRD-PARTY RIGHTS**

The parties hereto do not intend, nor shall this Agreement be construed to grant any rights, privileges or interest to any person not a party to this Agreement.

**Section 11. JURY TRIAL WAIVER.**

As part of the consideration for this Agreement, the parties hereby waive trial by jury in any action or proceeding brought by any party against any other party pertaining to any matter whatsoever arising out of or in any way connected with this Agreement, or with the products or services provided under this Agreement; including but not limited to any claim of quantum meruit.

**Section 12. ENTIRE AGREEMENT; AMENDMENT**

This Agreement with all incorporated attachments and exhibits represents the entire agreement of the parties. This Agreement may be amended by mutual written agreement of the parties.

**REMAINDER OF THE PAGE INTENTIONALLY LEFT BLANK**

**SIGNATURE PAGE TO FOLLOW**

**SIGNATURES**

**IN WITNESS WHEREOF**, the Parties hereto have caused this Agreement to be executed through their duly authorized signatories on the day and year last written below.

<b>Insert appropriate designation EXECUTION SIGNATURE</b>	<b>COMMISSION EXECUTION SIGNATURE</b>
<b>Hernando County</b>	<b>Florida Fish and Wildlife Conservation Commission</b>
<b>Insert appropriate designation Signature</b>	Executive Director (or Designee) Signature Danielle Kirkland
Print Name	Print Name Section Leader, Aquatic Habitat Conservation and Restoration
Title	Title
Date	Date

**ATTACHMENTS**

Attachments in this Agreement include the following:

- Attachment A, Jenkins Creek project area map
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Approved As To Form  
And Legal Sufficiency

By Victoria Anderson  
County Attorney's Office

Figure 1. Jenkins Creek Project Area

