

AMENDMENT #1
MEMORANDUM OF UNDERSTANDING
Between the
DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES,
FLORIDA FOREST SERVICE
and
THE SUMTER COUNTY BOARD OF COUNTY COMMISSIONERS
for
HYDROLOGIC RESTORATION WORK ON THE T.G. LEE TRACT, WITHLACOOCHEE
STATE FOREST

This Memorandum of Understanding (MOU) is made and entered into on this _____ day of _____, 2011 by and between the DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, FLORIDA FOREST SERVICE (hereinafter called "DIVISION") whose address is 15019 Broad Street, Brooksville, FL 34601 and SUMTER COUNTY BOARD OF COUNTY COMMISSIONERS (hereinafter called "COUNTY"), whose address is 7375 Powell Road, Wildwood, FL 34785.

WITNESSETH

WHEREAS, the T.G. Lee Tract of the Withlacoochee State Forest is owned by the Board of Trustees of the Internal Improvement Trust Fund and under the management of the DIVISION, as authorized by Chapters 253 and 589, Florida Statutes; AND

WHEREAS, it is recognized by the DIVISION that certain ditches existing on the T.G. Lee Tract of the Withlacoochee State Forest and installed prior to the state acquiring the property contribute to the impoundment, diversion, and acceleration of natural surface water drainage, negatively impacting wetland plant communities, habitat, and hydrological function of the property; AND

WHEREAS, it is desirable that natural surface water drainage and historic hydro period be restored to the extent possible by installing various types and numbers of water control structures; AND

WHEREAS, the COUNTY has access to specialized environmental contractors who in turn are willing to provide the services described in the document titled "**A Conceptual Wetland Restoration & Enhancement Plan for the T.G. Lee Tract, Sumter County**" (ATTACHMENT A) at no cost to the DIVISION; AND

WHEREAS, the DIVISION and the COUNTY (hereinafter called "PARTIES"), recognize that is project is conducted for the purpose of meeting permit requirements established by federal and state permitting agencies.

NOW THEREFORE, in consideration of the foregoing premises, which are made part of this MOU, the DIVISION and the COUNTY hereby agree to the following:

I. AUTHORITY

- A. The DIVISION enters into the MOU under the authority of Section 589.09 Florida Statutes, which authorizes cooperation with federal, state, and local governmental agencies, nonprofit organizations and other persons to promote and encourage the proper management of public lands.
- B. The COUNTY enters into this MOU under the authority of the SUMTER COUNTY BOARD OF COUNTY COMMISSIONERS.

II. EFFECTIVE DATE AND TERMS

- A. This Amendment #1 to the MOU shall commence on the date of full execution and shall remain in effect through the construction and monitoring phases. Upon satisfaction of the success criteria of the permit and release by the permitting authority, the DIVISION will resume full responsibility for the maintenance and management of the project site.
- B. The DIVISION agrees to provide pertinent site maps, historic information and data, including a copy of the FFS's "Wetland and Listed Wildlife Habitat Mitigation Protocol for State Forests" (ATTACHMENT B), and access to the project area to the COUNTY or their representative.
- C. The DIVISION will restrict all land use/management activities within the designated project area that may interfere with the timely completion of the project work and/or the success of the project.
- D. The DIVISION will maintain the site for the purpose of wetland restoration once the project work is completed and has met all success criteria established in the environmental permit.
- E. The COUNTY agrees to perform all design engineering, modeling, construction, and monitoring activities pertaining to the T.G. Lee Restoration Project according to the schedule and requirements specified in the document titled "A Conceptual Wetland Restoration & Enhancement Plan for the T.G. Lee Tract, Sumter County" (ATTACHMENT A).
- F. The COUNTY agrees to conduct equipment maintenance and to leave all work sites in a condition according to specifications established by the FFS Withlacoochee Forestry Center staff.
- G. The COUNTY agrees to obey all rules and regulations applicable to the T.G. Lee Tract according to specifications established by the FFS Withlacoochee Forestry Center staff.

III. PROJECT MANAGEMENT

- A. Project Managers – the PARTIES designate the employee, or their successor, set forth below as its respective Project Manager. Project Managers shall serve as each party's primary contact during the life of the T.G. Lee Restoration Project.

For the DIVISION:

Michael Penn
WFC Forestry Resource Administrator
15019 Broad Street
Brooksville, FL 34601
(352) 754-6777 x 117

For the COUNTY:

Scott B. Cottrell
319 East Anderson Avenue
Bushnell, FL 33513
(352) 569-6700

- B. The COUNTY agrees to seek comment from FFS on the task order per design of the T.G. Lee Restoration Project.
- C. The COUNTY agrees to solicit comments from FFS during the 60% plans review. Disagreements will be resolved by the Project Managers for the DIVISION and the COUNTY.

IV. CHANGES IN SERVICE REQUIREMENTS

Each party to this MOU may at any time, by mutual written agreement in the form of an amendment to this MOU, make changes within the general scope of this MOU in the services or work to be provided.

V. TERMINATIONS

- A. This MOU may be terminated for any reason by any party upon thirty (30) days written notice to the other party. Reasons for termination may be based on failure on the part of either party to implement the terms of the MOU or responsibilities as described in the Scope of Work (Attachment A).
- B. If this MOU is terminated prior to the satisfaction of all success criteria of the permit and/or release date of the project as granted by the permitting authority, the Southwest Florida Water Management District, the permit must be transferred by the COUNTY to another entity acceptable to the permitting authority and DIVISION.

VI. INDEMNITY AND INSURANCE

- A. Each party to the MOU is responsible for all personal injury and property damage attributable to the negligent acts or omissions of that party and the officer, employees and agents thereof, such responsibility subject to the limitations of Sumter County's Sovereign Immunity.
- B. The COUNTY shall provide proof of adequate personal injury and liability insurance as a requirement for performing project work under this MOU.
- C. Nothing contained herein shall operate or be construed a waiver of sovereign immunity by either party to this MOU.

VII. CIVIL RIGHTS

Pursuant to Chapter 750, Florida Statutes, no party shall discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, age, handicap or marital status.

VIII. CANCELLATION

The DIVISION reserves the right to unilaterally cancel this MOU for refusal by the COUNTY to allow public access to all documents, papers, letters, or other materials related to this MOU and subject to the provisions of Chapter 119, Florida Statutes, as amended.

IX. AUDIT: ACCESS TO RECORDS

Each party to this MOU agrees that the other party or their duly authorized representatives shall, until the expiration of three (3) years after the termination of this MOU, have access to examine any of the other party's documents, papers, letters, or other materials related to this MOU.

X. DISPUTE RESOLUTION

Any dispute arising under this MOU which is not disposed of by mutual consent of the Project Managers shall be determined by the Division's Director / County Administrator. If the Director and County Administrator cannot agree, the provisions of Florida's Intergovernmental Dispute Resolution Statute shall be implemented. Venue for any litigation arising from this agreement shall only be in Sumter County, Florida.

XI. GOVERNING LAW

This MOU shall be construed and interpreted according to the laws of the State of Florida.

XII. ENTIRE MOU

This MOU, upon execution by the DIVISION and the COUNTY, constitutes the entire MOU of the PARTIES. The PARTIES are not bound by any stipulations, representation, agreement, or promises, oral or otherwise, not printed or inserted in this MOU. Both parties agree that no representations have been made by either party to induce the other party to enter into this MOU other than as expressly stated by this MOU. This MOU can neither be changed orally, nor by any means other than written amendments referencing this MOU and signed by both parties.

IN WITNESS WHEREOF, THE PARTICIPANTS hereto have executed this MOU as of the last date written below.

ATTEST: FLORIDA FOREST SERVICE

By: _____
Mike Gresham
Director, Division of Administration

Date: _____

ATTEST: BOARD OF COUNTY COMMISSIONERS, SUMTER COUNTY, FLORIDA

By: _____
Gloria R. Hayward, Clerk

By: _____
Don Burgess, Chairman

Approved as to form by Sumter County Attorney

By: _____
County Attorney

Date: _____

Please return two originals to the address below and keep the other original for your files.

Send to: Florida Forest Service
3125 Conner Blvd., Room 234
Tallahassee, FL 32399-1650