

MEMORANDUM OF UNDERSTANDING  
BETWEEN  
STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION,  
DIVISION OF RECREATION AND PARKS and  
BROWARD COUNTY, FLORIDA

This MEMORANDUM OF UNDERSTANDING ("MOU") is hereby made and entered into on this \_\_\_\_\_ day of \_\_\_\_\_ 201\_\_\_\_, by and between the State of Florida Department of Environmental Protection, Division of Recreation and Parks ("DRP") and Broward County, a political subdivision of the State of Florida ("COUNTY").

WHEREAS, the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida ("Board of Trustees") Lease No. 2787 grants management authority to DRP for the Von D. Mizell and Eula Johnson State Park ("Park"); and

WHEREAS, COUNTY, as part of a federally and state approved local air program working on behalf of the State of Florida Department of Environmental Protection, desires to undertake the program ("Program") for the purpose of ambient air monitoring and data collection; and

WHEREAS, DRP and COUNTY wish to enter into this MOU to set forth and define their mutual understanding and obligations in regards to the COUNTY's Program, located in that portion of the Park as depicted in Exhibit "A" attached hereto;

NOW THEREFORE, in consideration of the faithful and timely performance of and compliance with all the responsibilities and conditions stated herein, and in consideration of any mutual benefits flowing from each to the other, DRP and COUNTY have entered into this MOU to set forth their responsibilities in regards to the installation, operation and maintenance of an ambient air monitoring station, as depicted in Exhibit "A", attached hereto and made a part hereof, subject to the following:

1. TERM: This MOU will commence upon the execution date of this MOU for a period of five (5) years, and end on \_\_\_\_\_, with an option to renew this MOU, upon the written consent of both DRP and COUNTY, for an additional 5 years, unless sooner terminated by DRP or COUNTY pursuant to the provisions of this MOU.
2. EXTENT OF AGREEMENT: This MOU authorizes COUNTY, its officers, employees, agents, authorized representatives, and contractors access and use of the Park for the installation, daily operations and maintenance of an ambient air monitoring station.
3. RIGHT OF INSPECTION: DRP or its authorized agents shall have the right at any time to inspect the works and operation pertaining to this MOU. These inspections shall not interfere in COUNTY's daily

operations or compromise the safety of COUNTY's officers, employees, agents, authorized representatives, and contractors.

4. RESPONSIBILITIES OF COUNTY:

- a. COUNTY shall coordinate all construction or demolition activities (7) seven days in advance with the manager of the Park (Park Manager) or manager's designee acting in their capacity as Park Manager by calling (954)-924-3859.
- b. COUNTY will be responsible for all costs, including electric, associated with the Program.
- c. Any modifications to Exhibit "A" shall be approved in writing by DRP, prior to commencing work.
- d. Exterior lighting of the monitoring station shall be Florida Fish and Wildlife Conservation Commission (FWCC) approved lighting. Further, the number of lights and their location shall also be approved by FWCC.
- e. COUNTY will be responsible for maintaining compliance for accessibility standards determined by the Americans with Disabilities Act of 1990, in the event that any government agency requires compliance as such. Further County shall maintain compliance at its own expense.
- f. COUNTY is prohibited from maintaining outside storage or garbage disposal.
- g. COUNTY will cease construction, or operations if the Park Manager observes conditions that are detrimental to Park facilities, resources or Park visitors. Park Manager and COUNTY will work together to mutually resolve issues as quickly as possible.
- h. If required by the Park Manager, the exterior of the monitoring station shall be painted to coordinate with the existing Park facilities and shall be approved in advance by the Park Manager.
- i. COUNTY shall ensure that all stationary and mechanized equipment to be used on the Park has been thoroughly cleaned to help prevent exotic or invasive species from entering the Park. The Park Manager reserves the right to inspect and deny Park access to equipment that has not been sufficiently cleaned.
- j. Before demolition and construction activities can begin, final site plans must be approved by the Park Manager.
- k. Upon termination of this MOU, COUNTY will leave the Park in the same condition, if not better, than on the date this MOU first commenced.

5. RESPONSIBILITIES OF DRP:
  - a. Access to the site shall be determined by the Park Manager for both the initial installation and routine operations.
  - b. DRP shall provide reasonable ingress and egress to the site during normal Park operation hours.
6. INTEREST: COUNTY agrees that the rights herein granted by this MOU are permissive rights only and shall not vest any real property rights or interest to either party or conflict with the conservation, protection and enhancement of the Park. COUNTY shall implement applicable Best Management Practices in compliance with paragraph 18-2.018, Florida Administrative Code, for all the activities conducted under this MOU, which have been selected, developed, and approved by DRP or other land managing agencies for the protection and enhancement of the Park.
7. ASSIGNMENT: This MOU is personal to COUNTY and may not be transferred or assigned without the prior written approval of DRP; however, both parties recognize and agree that some or all of the activities permitted under this MOU may be performed by COUNTY or COUNTY's contractors under a separate agreement. Such performance by COUNTY's contractors does not create or impose any duty or responsibility between the original parties to this MOU, nor does it relieve COUNTY of any duty, responsibility, or liability under this MOU.
8. COMPLIANCE WITH LAWS: This MOU is contingent upon and subject to COUNTY obtaining all applicable permits, compliance with all applicable regulations, ordinances, rules, laws of the State of Florida or the United States or any political subdivision or agency of either.
9. TERMINATION: Either party may terminate this MOU by giving notice to the other party specifying the termination date, by certified mail with a return receipt requested ninety (90) calendar days prior to date specified in the notice. In the event that this MOU is terminated by COUNTY, all rights inuring to COUNTY or its successors shall cease upon the effective date of the letter of termination with the exception of those activities necessary to demobilize and remove personnel and equipment, but COUNTY's obligations and responsibilities under paragraph 10. of this MOU shall survive termination.
10. REMOVAL OF EQUIPMENT: Upon termination or expiration of this MOU, the removable equipment and removable improvements placed on the premises by COUNTY that have not become a permanent part of the premises and are not desired by DRP, shall be removed by COUNTY, at its sole cost and expense, within thirty (30) calendar days after the termination or expiration of this MOU. Further, COUNTY shall restore the premises to substantially the same or better condition than it was upon the effective date of this MOU.

11. **INSURANCE REQUIREMENTS:** During the term of this lease COUNTY shall procure and maintain policies of fire, extended risk, and liability insurance coverage. The extended risk and fire insurance coverage shall be in an amount equal to the full insurable replacement value of any improvements or fixtures located on the Park. The liability insurance coverage shall be in amounts not less than \$200,000 per person and \$300,000 per incident or occurrence for personal injury, death, and property damage in the Park. During the term of this MOU, if Section 768.28, Florida Statutes, or its successor statute is subsequently amended to increase the amount of the liability coverages specified herein, COUNTY shall immediately provide liability coverage for the increased amounts and provide a Certification of Self Insurance Letter to DRP, the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida, and the State of Florida. COUNTY shall submit a written Certification of Self Insurance Letter as evidence of the insurance coverages required herein to the Park Manager prior to entering the Park for construction. COUNTY shall be financially responsible for any loss due to failure to obtain adequate insurance coverage.
12. **LIABILITY:** Each party to this MOU is responsible for all personal injury and property damage attributable to the negligent acts or omissions of that party and the officers, employees and agents thereof. Nothing herein shall be construed as an indemnity or a waiver of sovereign immunity enjoyed by any party hereto, as provided in Section 768.28, Florida Statutes, as amended from time to time, or any other law providing limitations on claims.
13. **FORCE MAJEURE:** Neither party shall be responsible for any inability or failure to comply with the terms of this MOU due to causes beyond its control and without the negligence or malfeasance of such party. These causes shall include, but not be restricted to: power failures, theft, fire, storm, flood, earthquake, explosion, acts of the public enemy, war, rebellion, insurrection, mutiny, sabotage, epidemic, quarantine restrictions, labor disputes, embargoes, acts of God, acts of the United States or any other government, including the failure of any government to grant export or import licenses or permits.
14. **GOVERNING LAW:** This MOU shall be governed by and interpreted according to the laws of the State of Florida.
15. **PARTIAL INVALIDITY:** If any term, covenant, condition, or provision of this MOU shall be ruled by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder shall remain in full force and effect and shall in no way be affected, impaired or invalidated.



ATTEST:

**BROWARD COUNTY**, a political subdivision of the State of Florida  
By and through its Board of County Commissioners

\_\_\_\_\_  
Broward County Administrator, as  
Ex-officio Clerk of the Broward County  
Board of County Commissioners

By: \_\_\_\_\_  
Barbara Sharief, Mayor

\_\_\_\_ day of \_\_\_\_\_, 20\_\_

Insurance requirements  
approved by Broward County  
Risk Management Division

Approved as to form by  
Joni Armstrong Coffey  
Broward County Attorney  
Governmental Center, Suite 423  
115 South Andrews Avenue  
Fort Lauderdale, Florida 33301  
Telephone: (954) 357-7600  
Telecopier: (954) 357-7641

By W. Fletcher 6-2-17  
Signature (Date)

WAYNE FLETCHER RISK MGR  
Print Name and Title above

By Michael C. Owens 6/1/17  
Michael C. Owens (Date)  
Senior Assistant County Attorney

Maite Azcoitia 6/2/17  
Maite Azcoitia (Date)  
Deputy County Attorney

MCO/gmb  
Broward County Air Monitoring MOU.docx  
05/19/2017  
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