

RESOLUTION NO. 2022 - 325

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS AND CONDITIONS OF AND AUTHORIZING THE EXECUTION OF AN AMENDMENT TO MEMORANDUM OF UNDERSTANDING BETWEEN THE FRIENDS OF GUANA TOLOMATO MATANZAS RESEARCH RESERVE AND ST. JOHNS COUNTY FOR THE ST. JOHNS COUNTY, FLORIDA, FOR THE DEVELOPMENT OF A BEACHFRONT DATA COLLECTION FACILITY; PROVIDING FOR THE EFFECT OF RECITALS; AUTHORIZING THE CHAIR OF THE BOARD OF COUNTY COMMISSIONERS, OR DESIGNEE, TO EXECUTE THE MEMORANDUM OF UNDERSTANDING AND RELATED DOCUMENTS; PROVIDING FOR CORRECTION OF ERRORS; PROVIDING DIRECTION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, St. Johns County ("County") is working with the Friends of the Guana Tolomato Matanzas Research Reserve ("Friends") to develop and maintain a Beachfront Data Collection Facility ("BDCF") within the Guana River Marsh Aquatic Preserve ("GRMAP"), which is part of the Guana Tolomato Matanzas National Estuarine Research Reserve ("GTMNERR"); and,

WHEREAS, the BDCF is intended to be a long-term field installation to collect and disseminate nearshore oceanographic & beachfront meteorological data; and,

WHEREAS, the BDCF will deliver historic and real-time wave and water level data for the ongoing support of design, construction, and performance assessments of beach management projects, the management of the County's inlets, and the use of local citizenry, including recreational and commercial boaters and fishermen; and,

WHEREAS, St. Johns County Board of County Commissioners has budgeted funding the BDCF for FY 20-21; and,

WHEREAS, the amount of funding provided to the Friends shall be addressed in Exhibit "B" and following the approval of the County's budget for that fiscal year; and,

WHEREAS, on January 19, 2021, the Friends and the County entered into the Memorandum of Understanding, See attached Exhibit "A"; and,

WHEREAS, the Friends and the County desire to amend and replace the Memorandum of Understanding to remove the requirement for future annual Memorandums of Understanding to authorize budgeted payments, and to increase the maintenance funding by 5% annually; and,

WHEREAS, the County and Friends executed previously executed the Memorandum of Understanding and have reviewed the terms, provisions and requirements of the Memo as amended, and have determined that accepting the terms of the Memo serves the public interests of the citizens of St. Johns County; and

NOW THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, THAT:

1. The above recitals are hereby adopted as findings of fact.
2. The most recent Memorandum of Understanding is attached and incorporated as Exhibit "A".
3. That Memorandum of Understanding shall be amended and replaced with Exhibit "B".
4. The County Administrator, or designee, is hereby authorized to execute the Memorandum of Understanding on behalf of the County for the purposes mentioned above.
5. To the extent that there are typographical and/or administrative errors and/or omissions that do not change the tone, tenor, or context of this Resolution and the underlying Memorandum of Understanding, then this Resolution may be revised without subsequent approval of the Board of County Commissioners.
6. This resolution shall become effective immediately upon its adoption by the Board of County Commissioners.

PASSED AND ADOPTED by the Board of Board of County Commissioners of St. Johns County, Florida this 6th day of September 2022.

ATTEST] Brandon J. Patty
Clerk of the Circuit Court & Comptroller

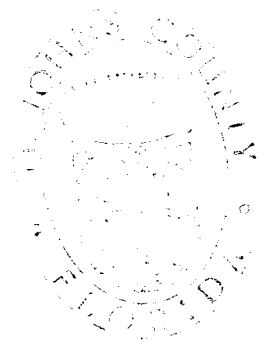
BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

By: Pam Hatterman
Deputy Clerk

By: Henry Dean
Henry Dean, Chair

Rendition Date: 9/8/22

Effective Date: 9/6/22



MEMORANDUM OF UNDERSTANDING

BETWEEN

ST. JOHNS COUNTY

AND

FRIENDS OF THE GUANA TOLOMATO MATANZAS RESEARCH RESERVE

Res 2021-43

This Memorandum of Understanding (MOU) is an agreement between the St. Johns County ("County") and Friends of the Guana Tolomato Matanzas Research Reserve ("Friends"), collectively referred to as "the Parties". This MOU is intended to establish the terms and understanding of funds provided by the County to the Friends for the development of a Beachfront Data Collection Facility ("BDCF") within the Guana River Marsh Aquatic Preserve ("GRMAP"), which is part of the Guana Tolomato Matanzas National Estuarine Research Reserve ("GTMNERR"). The BDCF is intended to be a long-term field installation to collect and disseminate nearshore oceanographic & beachfront meteorological data. This MOU will serve to memorialize the terms and conditions between the Parties regarding project commitments and funds.

I. BACKGROUND

GRMAP was established in 1985 after the area was purchased by the State of Florida to protect the relatively undisturbed coastal ecosystem including beaches, dunes, the estuary and other associated aquatic and upland habitats. GRMAP is managed by the Florida Department of Environmental Protection's Office of Resilience and Coastal Protection ("RCP") as part of the GTM NERR.

In 1999, the GTM NERR was designated in St. Johns and Flagler counties, Florida as a part of the National Oceanic and Atmospheric Administration (NOAA) National Estuarine Research Reserve (NERR) system because of its outstanding representation of the east Florida sub-region of the Carolinian bioregion and its unique combination of natural and cultural resources. It covers over 76,000 acres of coastal lands in northeast Florida from Ponte Vedra Beach to Palm Coast. The Reserve is comprised of salt marsh and mangrove tidal wetlands, oyster bars, estuarine lagoons, as well as several upland habitats. The GTM NERR is part of a national system of research reserves that focus on research, education and stewardship. As one of the 28 reserves in the National Estuarine Research Reserve system, the Research Team at GTM NERR is charged with implementing national, long-term research programs, investigating regional and scientific topics, and facilitating scientists and students who conduct their research in the myriad habitats within the reserve.

The Friends is a 501(c)(3) nonprofit organization established to support and enhance environmental education, stewardship of natural and cultural resources, and scientific research of the GTM NERR through volunteer initiatives, citizen involvement, community partnerships, and funding.

In alignment with Management Plan objectives of the GTM NERR, the Friends' goal to support those objectives, and the coastal management needs of St. Johns County, the BDCF was conceived to provide the following:

- a) Data needed for ongoing support of 1) the design, construction, and performance-assessment of all beach management and nourishment projects in St. Johns County and 2) the management of the County's inlets, i.e. St. Augustine Inlet and Matanzas Inlet.
- b) Historic and real-time Atlantic Ocean wave and water level information for the use of local citizenry including recreational and commercial boaters and fishermen. Basic instrumentation-infrastructure required for scientific and engineering investigations of a variety of coastal phenomena that are specific/relevant to all of the County's beaches, and the majority of Florida's sandy coasts (e.g. storm-induced beach erosion and recovery, protection afforded by dunes, longshore sand transport; rip currents, nearshore water quality and algae blooms, natural turbidity levels).
- c) Basic, long-term data required for the development and validation of tools and methods needed to support Florida's efforts to promote coastal resiliency, support emergency pre-storm preparations, and conduct post-storm forensics.
- d) Field-infrastructure and local background information/data with which to attract funding for basic research of littoral processes, particularly from federal agencies such as the National Science Foundation, NOAA, the U.S. Coastal Research Program, and the U.S. Army Corps of Engineers.
- e) Delivery via wireless communication – to St. Johns County on a regular basis once the instrument system is functional – of processed, concurrent, hourly data representing near-real-time wave, water level, and weather conditions at the instrument locations. Delivered data shall include standard (significant wave height, peak wave period, mean wave direction) and meteorological (wind speed and direction, barometric pressure, air temperature) parameters.
- f) Opportunities to involve the public, both in St. Johns County and throughout the State, in the educational/awareness afforded by a real-time nearshore wave & weather monitoring system.

II. PAYMENT PROVISIONS

The County agrees to provide the funding based on the following schedule for eligible costs as described. Funds for the County's Fiscal Year 20-21 (FY20-21) will be provided to the Friends within 15 days of the execution of this agreement. For each fiscal year that follows, the amount of funding provided to the Friends shall be addressed in an amendment to this MOU following the approval of the County's budget for that fiscal year. Note that the County operates on a Fiscal Year of October 1 – September 30.

FY20-21 (October 1, 2020 – September 30, 2021)

	Eligible Costs	Amount
Direct Costs (equipment, supplies and contractual services for the BDCF)		\$90,000
Indirect Costs (operational costs of the Friends)		\$10,000
	Total	\$100,000

The Friends shall provide to the County a report on the status of the BDCF on December 31, March 30, June 30, and September 30 for each year funding is provided.

The County's payment of funds under this agreement is contingent upon the appropriation of sufficient funds for that purpose by the Board. Pursuant to the requirements of Section 129.07, Florida Statutes, payments made under this agreement shall not exceed the amount appropriated in the County's budget for such purpose in that fiscal year. Nothing in this agreement shall create any obligation on the part of the Board to appropriate funds for any particular purpose during any given fiscal year.

III. GENERAL TERMS AND CONDITIONS

All terms and conditions verbally agreed to and/or stated in this MOU are subject to approval by the St. Johns County Board of County Commissioners and the Executive Director of the Friends.

a. Term.

It is understood and agreed that the relationship established by this Agreement is meant to be for the benefit of the Parties, and that this Agreement shall be effective on the date of execution by the Parties and shall remain in effect until September 30, 2025 unless terminated, suspended or modified in writing by an appropriate amendment executed by the Parties.

b. Default.

In the event that a Party becomes aware of a violation of the terms of this Memorandum of Understanding, the Party shall give Notice to the Party in Default in accordance with the Notice provisions of this section ("Notice of Violation"). Upon receiving the Notice of Violation, the Party who has committed the violation shall initiate corrective action within fifteen (15) days of receipt of the Notice of Violation and shall discontinue, abate, or cure the violations within thirty (30) days after receipt of the Notice of Violation, or a longer period of time if provided for in the Notice of Violation.

In the event that the violation is not discontinued, abated, or cured within the time provided in the preceding paragraph or by the Notice of Violation, the noticing Party shall be entitled to bring an action at law or in equity before a court of competent jurisdiction. Neither Party waives or forfeits their right to take such action as may be necessary to ensure compliance with this Memorandum of Understanding by any prior failure to act. Nothing in this agreement shall constitute a waiver of sovereign immunity.

c. Notices.

Any notices, demand, request or other instrument which may be or is required to be given under this Memorandum of Understanding shall be delivered in person, sent by United States Certified mail, postage prepaid, or sent by a reputable overnight courier service and

shall be addressed to the Parties at the address as hereinabove given. Any notice shall be deemed delivered upon hand delivery or three (3) business days after depositing in U.S. Mail, or one (1) business day after depositing such notice with a reputable overnight courier service. Any of the Parties may designate another address by giving written notice to the other PARTY. It is understood by the Parties that routine and non-agreement related communication will occur telephonically, via email and in person.

d. Amendments.

Amendments may only be made by the mutual consent of the parties with the same formality by which the original Memorandum of Understanding was approved.

e. Public Records.

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

f. Applicable Law/Venue.

This Memorandum of Understanding, the rights and obligations of the Parties hereto, and any claim or dispute relating thereto shall be governed by, interpreted, construed, and enforced in accordance with the laws of the State of Florida. Venue shall be in the Circuit Court for the Seventh Judicial Circuit in and for St. Johns County, Florida.

g. Successors and Assigns.

Except as otherwise expressly provided, all provisions herein shall be binding upon and shall inure to the benefit of the Parties, their legal representatives, successors and assigns. This Memorandum of Understanding shall not be assigned without written consent of the County.

h. Entire Agreement.

This Memorandum of Understanding and any Exhibits attached hereto constitute the entire agreement between the Parties. Any prior conversations or writings are merged herein and extinguished.

i. Partial Invalidity/Severability.

If any provision of this Memorandum of Understanding, or any application thereof to any person or circumstances shall to any extent be declared invalid, the remainder of this Memorandum of Understanding or the application of such provision to persons or circumstances (other than those as to which it is held invalid) shall not be affected thereby and each provision of this Memorandum of Understanding shall be valid and enforced to the fullest extent permitted by law.

j. No Partnership.

Nothing contained in this Memorandum of Understanding shall be deemed or construed so as to create the relationship of employer-employee, principal-agent, joint ventures, co-adventurers, or partners between the County and the Friends, and they are and shall remain independent one as to the other.

k. No Third-Party Beneficiaries

Nothing set forth herein shall be construed to give any rights or benefits in this Agreement to anyone other than the County, and the Friends, and all duties and responsibilities undertaken pursuant to this Memorandum of Understanding will be for the sole and exclusive benefit of the County and the Friends and not for the benefit of any other party.

l. Counterparts

This Memorandum of Understanding may be executed in three or more counterparts, each of which may be executed by one or more of the Parties hereto, but all of which, when delivered and taken together, shall constitute but one agreement binding upon all of the Parties hereto.

~~m.~~ **Non-Exclusivity/Exclusivity**

Nothing contained herein shall restrict either of the Parties from participating in similar activities with other public or private agencies, organizations, and individuals.

n. Interpretation

This Memorandum of Understanding shall not be construed more strictly against one of the Parties than against the others merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being recognized that COUNTY and the Friends have contributed substantially and materially to the preparation hereof.

o. Force Majeure

No party shall be considered in default in performance of its obligations hereunder to the extent that performance of such obligations, or any of them, is delayed or prevented by force majeure. Force Majeure shall include, but not be limited to, hostility, revolution, civil commotion, strike, epidemic, fire, flood, wind, earthquake, terrorism, hurricane, explosion, any emergency declaration under state law, or any act of God or any cause whether of the same or different nature, existing or future; provided that the cause whether or not enumerated in this Section is beyond the control and authority and without the fault or negligence of the party seeking relief under this Section.

p. Binding Authority

Each party hereto represents to the other that it has undertaken all necessary actions to execute this Memorandum of Understanding, and that it has the legal authority to enter into this Memorandum of Understanding and to undertake all obligations imposed on it.

q. Captions

The headings or captions of the sections and subsections contained herein are used for convenience and reference only, and do not, in themselves, have any legal significance and shall not be afforded any. They are in no way intended to describe, interpret, define or limit the scope, extent or intent of this Memorandum of Understanding, or any provision hereto.

r. 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.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties represent their intent on the date set forth below:

COUNTY:

ST. JOHNS COUNTY BOARD OF COUNTY COMMISSIONERS

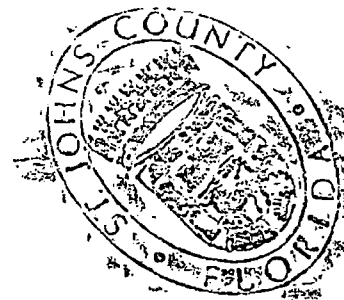
By: _____

Henry Dean
Henry Dean, Vice Chairman

ViceChair

Date of Execution: _____

1/21/21



FRIENDS OF THE GTM RESEARCH RESERVE:

By: _____

Ellen Leroy-Reed
Ellen Leroy-Reed

Executive Director

Date of Execution: 12/8/2020

**MEMORANDUM OF UNDERSTANDING BETWEEN
ST. JOHNS COUNTY AND
FRIENDS OF THE GUANA TOLOMATO MATANZAS NATIONAL ESTURIANE
RESEARCH RESERVE**

This Memorandum of Understanding (MoU) is an agreement between the St. Johns County ("County") and Friends of the Guana Tolomato Matanzas Research Reserve ("Friends"), collectively referred to as "the Parties". This MoU is intended to establish the terms and understanding of funds provided by the County to the Friends for the Operation and Maintenance of a Beachfront Data Collection Facility ("BDCF") within the Guana River Marsh Aquatic Preserve ("GRMAP"), which is part of the Guana Tolomato Matanzas National Estuarine Research Reserve ("GTMNERR"). The BDCF is intended to be a long-term field installation to collect and disseminate nearshore oceanographic & beachfront meteorological data. This MoU will serve to memorialize the terms and conditions between the Parties regarding project commitments and funds.

I. BACKGROUND

GRMAP was established in 1985 after the area was purchased by the State of Florida to protect the relatively undisturbed coastal ecosystem including beaches, dunes, the estuary and other associated aquatic and upland habitats. GRMAP is managed by the Florida Department of Environmental Protection's Office of Resilience and Coastal Protection ("RCP") as part of the GTM NERR.

In 1999, the GTM NERR was designated in St. Johns and Flagler counties, Florida as a part of the National Oceanic and Atmospheric Administration (NOAA) National Estuarine Research Reserve (NERR) system because of its outstanding representation of the east Florida sub-region of the Carolinian bioregion and its unique combination of natural and cultural resources. It covers over 76,000 acres of coastal lands in northeast Florida from Ponte Vedra Beach to Palm Coast. The Reserve is comprised of salt marsh and mangrove tidal wetlands, oyster bars, estuarine lagoons, as well as several upland habitats. The GTM NERR is part of a national system of research reserves that focus on research, education and stewardship. As one of the twenty-eight (28) reserves in the National Estuarine Research Reserve system, the Research Team at GTM NERR is charged with implementing national, long-term research programs, investigating regional and scientific topics, and facilitating scientists and students who conduct their research in the myriad habitats within the reserve.

The Friends is a 501(c)(3) nonprofit organization established to support and enhance environmental education, stewardship of natural and cultural resources, and scientific research of the GTM NERR through volunteer initiatives, citizen involvement, community partnerships, and funding.

In alignment with Management Plan objectives of the GTM NERR, the Friends' goal to support those objectives, and the coastal management needs of St. Johns County, the BDCF was conceived to provide the following:

- a) Data needed for ongoing support of:
 1. The designs, construction, and performance-assessment of all beach management and nourishment projects in St. Johns County and
 2. The management of the County's inlets, i.e. St. Augustine Inlet and Matanzas Inlet.
- b) Historic and real-time Atlantic Ocean wave and water level information for the use of local citizenry including recreational and commercial boaters and fishermen. Basic instrumentation-infrastructure required for scientific and engineering investigations of a variety of coastal phenomena that are specific/relevant to all of the County's beaches, and the majority of Florida's sandy coasts (e.g. storm-induced beach erosion and recovery, protection afforded by dunes, longshore sand transport, rip currents, nearshore water quality and algae blooms, natural turbidity levels).
- c) Basic, long-term data required for the development and validation of tools and methods needed to support Florida's efforts to promote coastal resiliency, support emergency pre-storm preparations, and conduct post-storm forensics.
- d) Field-infrastructure and local background information/data with which to attract funding for basic research of littoral processes, particularly from federal agencies such as the National Science Foundation, NOAA, the U.S. Coastal Research Program, and the U.S. Army Corps of Engineers.
- e) Delivery via wireless communication – to St. Johns County on a regular basis once the instrument system is functional – of processed, concurrent, hourly data representing near-real-time wave, water level, and weather conditions at the instrument locations. Delivered data shall include standard nearshore oceanographic parameters (significant wave height, peak wave period, mean wave direction, water level, and current profiles) and meteorological parameters (wind speed and direction, barometric pressure, air temperature).
- f) Opportunities to involve the public, both in St. Johns County and throughout the State, in the educational/awareness afforded by a real-time nearshore wave & weather monitoring system.

- g) On January 19, 2021, the Friends and the County entered into a Memorandum of Understanding to develop (i.e. design, fabricate, and install) the BDCF (See attached Exhibit "A"). The Friends and the County now desire to amend that Memorandum of Understanding, to remove the implied requirement for an annual Memorandum of Understanding for the Operation & Maintenance of the BDCF and replace it with a long-term agreement that can be terminated should the project come to its natural end, or should either party desire to discontinue the working agreement.
- h) This MoU is replacing the January 19, 2021 Memorandum of Understanding between the County and Friends. This new Memorandum of Understanding and any Exhibits attached hereto now constitute the entire agreement between the Parties.

II. PAYMENT PROVISIONS

For each fiscal year, the amount of funding provided to the Friends shall be addressed in the County’s budget for that fiscal year. Note that the County operates on a Fiscal Year of October 1 – September 30.

Schedule of Proposed Payments (including nominal 5% adjustment for inflation)

Fiscal Year Proposed Payments	Amount
Fiscal Year 21/22 (due within 15 days of execution of this MoU)	\$40,000
Fiscal Year 22/23 (due no later than October 15, 2022)	\$42,000*
Fiscal Year 23/24 (due no later than October 15, 2023)	\$44,100*
Fiscal Year 24/25 (due no later than October 15, 2024)	\$46,300*
Total for Current FY and Next three years if fully authorized	\$172,400

* Note that these amounts are subject to being budgeted by the County in that year’s budget. **The amount of \$40,000 for FY 21/22 is currently contained in the approved FY 21/22 County budget for O&M of the BDCF.**

The Friends shall provide to the County a quarterly report on the status of the BDCF on the subsequent 15th day of January, April, July, and October for each fiscal year that funding is provided. A single report for FY 21/22 will be delivered on or before October 15, 2022 that encompasses the activities & data collection that have been ongoing since October 1, 2021.

The County’s payment of funds under this agreement is contingent upon the appropriation of sufficient funds for that purpose by the Board. Pursuant to the requirements of Section 129.07, Florida Statutes, payments made under this agreement shall not exceed the amount appropriated in the County’s budget for such purpose in that fiscal year. Nothing in this Agreement shall create any obligation on the part of the Board to appropriate funds for any particular

purpose during any given fiscal year, with the exception of FY 21/22 (\$40,000) which has been appropriated, and for which O&M has been ongoing.

III. GENERAL TERMS AND CONDITIONS

All terms and conditions verbally agreed to and/or stated in this MOU are subject to approval by the St. Johns County Board of County Commissioners and the Executive Director of the Friends.

a. Term

It is understood and agreed that the relationship established by this MoU is meant to be for the benefit of the Parties, and that this MoU shall be effective on the date of the original execution by the Parties and shall remain in effect until September 30, 2025 unless terminated, suspended or modified in writing by an appropriate amendment executed by the Parties.

b. Termination

Either party may, by written notice, terminate the Work under this MoU in whole or in part at any time. Should the County fail to provide funding in its annual budget, the Parties agree that this would constitute an inferred notice of termination of this MoU. Upon any receipt of a written or inferred termination notice, Friends shall immediately stop all work for the County. Friends shall not be paid for any work performed or costs incurred after the termination date that reasonably could have been avoided, except for work and costs required to decommission the BDCF.

c. Default

In the event that a Party becomes aware of a violation of the terms of this Memorandum of Understanding, the Party shall give Notice to the Party in Default in accordance with the Notice provisions of this section ("Notice of Violation"). Upon receiving the Notice of Violation, the Party who has committed the violation shall initiate corrective action within fifteen (15) days of receipt of the Notice of Violation and shall discontinue, abate, or cure the violations within thirty (30) days after receipt of the Notice of Violation, or a longer period of time if provided for in the Notice of Violation.

In the event that the violation is not discontinued, abated, or cured within the time provided in the preceding paragraph or by the Notice of Violation, the noticing Party shall be entitled to bring an action at law or in equity before a court of competent jurisdiction. Neither Party waives or forfeits their right to take such action as may be necessary to ensure compliance with this Memorandum of Understanding by any prior failure to act. Nothing in this MoU shall constitute a waiver of sovereign immunity.

d. Notices

Any notices, demand, request or other instrument which may be or is required to be given under this Memorandum of Understanding shall be delivered in person, sent by United States Certified mail, postage prepaid, or sent by a reputable overnight courier service and shall be addressed to the Parties at the address as hereinabove given. Any notice shall be deemed delivered upon hand delivery or three (3) business days after depositing in U.S. Mail, or one (1) business day after depositing such notice with a reputable overnight courier service. Any of the Parties may designate another address by giving written notice to the other Party. It is understood by the Parties that routine and non-agreement related communication will occur telephonically, via email and in person.

e. Amendments

Amendments may only be made by the mutual consent of the parties with the same formality by which the original Memorandum of Understanding was approved.

f. Public Records

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

g. Applicable Law/Venue

This Memorandum of Understanding, the rights and obligations of the Parties hereto, and any claim or dispute relating thereto shall be governed by, interpreted, construed, and enforced in accordance with the laws of the State of Florida. Venue shall be in the Circuit Court for the Seventh Judicial Circuit in and for St. Johns County, Florida.

h. Successors and Assigns

Except as otherwise expressly provided, all provisions herein shall be binding upon and shall inure to the benefit of the Parties, their legal representatives, successors and assigns. This Memorandum of Understanding shall not be assigned without written consent of the County.

i. Entire Agreement

This Memorandum of Understanding and any Exhibits attached hereto constitute the entire agreement between the Parties. Any prior conversations or writings are merged herein and extinguished.

j. Partial Invalidity/Severability

If any provision of this Memorandum of Understanding, or any application thereof to any person or circumstances shall to any extent be declared invalid, the remainder of this Memorandum of Understanding or the application of such

provision to persons or circumstances (other than those as to which it is held invalid) shall not be affected thereby and each provision of this Memorandum of Understanding shall be valid and enforced to the fullest extent permitted by law.

k. No Partnership

Nothing contained in this Memorandum of Understanding shall be deemed or construed so as to create the relationship of employer-employee, principal-agent, joint ventures, co-adventurers, or partners between the County and the Friends, and they are and shall remain independent one as to the other.

l. No Third-Party Beneficiaries

Nothing set forth herein shall be construed to give any rights or benefits in this MoU to anyone other than the County, and the Friends, and all duties and responsibilities undertaken pursuant to this Memorandum of Understanding will be for the sole and exclusive benefit of the County and the Friends and not for the benefit of any other party.

m. Counterparts

This Memorandum of Understanding may be executed in three or more counterparts, each of which may be executed by one or more of the Parties hereto, but all of which, when delivered and taken together, shall constitute but one agreement binding upon all of the Parties hereto.

n. Non-Exclusivity/Exclusivity

Nothing contained herein shall restrict either of the Parties from participating in similar activities with other public or private agencies, organizations, and individuals.

o. Interpretation

This Memorandum of Understanding shall not be construed more strictly against one of the Parties than against the others merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being recognized that the County and the Friends have contributed substantially and materially to the preparation hereof.

p. Force Majeure

No party shall be considered in default in performance of its obligations hereunder to the extent that performance of such obligations, or any of them, is delayed or prevented by force majeure. Force Majeure shall include, but not be limited to, hostility, revolution, civil commotion, strike, epidemic, fire, flood, wind, earthquake, terrorism, hurricane, explosion, any emergency declaration under state law, or any act of God or any cause whether of the same or different nature, existing or future; provided that the cause whether or not enumerated in this

Section is beyond the control and authority and without the fault or negligence of the party seeking relief under this Section.

q. Binding Authority

Each party hereto represents to the other that it has undertaken all necessary actions to execute this Memorandum of Understanding, and that it has the legal authority to enter into this Memorandum of Understanding and to undertake all obligations imposed on it.

r. Captions

The headings or captions of the sections and subsections contained herein are used for convenience and reference only, and do not, in themselves, have any legal significance and shall not be afforded any. They are in no way intended to describe, interpret, define or limit the scope, extent or intent of this Memorandum of Understanding, or any provision hereto.

s. 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.

{The remainder of this page was intentionally left blank. Signatures to follow.}

IN WITNESS WHEREOF, the Parties represent their intent on the date set forth below:

COUNTY:

ST. JOHNS COUNTY BOARD OF COUNTY COMMISSIONERS

By: _____

Henry Dean, Chair

Date of Execution: _____

FRIENDS OF THE GTM RESEARCH RESERVE:

By: _____

Ellen Leroy-Reed, Executive Director

Date of Execution: _____

MEMORANDUM OF UNDERSTANDING

BETWEEN

ST. JOHNS COUNTY

AND

FRIENDS OF THE GUANA TOLOMATO MATANZAS RESEARCH RESERVE

Res 2021-43

This Memorandum of Understanding (MOU) is an agreement between the St. Johns County ("County") and Friends of the Guana Tolomato Matanzas Research Reserve ("Friends"), collectively referred to as "the Parties". This MOU is intended to establish the terms and understanding of funds provided by the County to the Friends for the development of a Beachfront Data Collection Facility ("BDCF") within the Guana River Marsh Aquatic Preserve ("GRMAP"), which is part of the Guana Tolomato Matanzas National Estuarine Research Reserve ("GTMNERR"). The BDCF is intended to be a long-term field installation to collect and disseminate nearshore oceanographic & beachfront meteorological data. This MOU will serve to memorialize the terms and conditions between the Parties regarding project commitments and funds.

I. BACKGROUND

GRMAP was established in 1985 after the area was purchased by the State of Florida to protect the relatively undisturbed coastal ecosystem including beaches, dunes, the estuary and other associated aquatic and upland habitats. GRMAP is managed by the Florida Department of Environmental Protection's Office of Resilience and Coastal Protection ("RCP") as part of the GTM NERR.

In 1999, the GTM NERR was designated in St. Johns and Flagler counties, Florida as a part of the National Oceanic and Atmospheric Administration (NOAA) National Estuarine Research Reserve (NERR) system because of its outstanding representation of the east Florida sub-region of the Carolinian bioregion and its unique combination of natural and cultural resources. It covers over 76,000 acres of coastal lands in northeast Florida from Ponte Vedra Beach to Palm Coast. The Reserve is comprised of salt marsh and mangrove tidal wetlands, oyster bars, estuarine lagoons, as well as several upland habitats. The GTM NERR is part of a national system of research reserves that focus on research, education and stewardship. As one of the 28 reserves in the National Estuarine Research Reserve system, the Research Team at GTM NERR is charged with implementing national, long-term research programs, investigating regional and scientific topics, and facilitating scientists and students who conduct their research in the myriad habitats within the reserve.

The Friends is a 501(c)(3) nonprofit organization established to support and enhance environmental education, stewardship of natural and cultural resources, and scientific research of the GTM NERR through volunteer initiatives, citizen involvement, community partnerships, and funding.

In alignment with Management Plan objectives of the GTM NERR, the Friends' goal to support those objectives, and the coastal management needs of St. Johns County, the BDCF was conceived to provide the following:

- a) Data needed for ongoing support of 1) the design, construction, and performance-assessment of all beach management and nourishment projects in St. Johns County and 2) the management of the County's inlets, i.e. St. Augustine Inlet and Matanzas Inlet.
- b) Historic and real-time Atlantic Ocean wave and water level information for the use of local citizenry including recreational and commercial boaters and fishermen. Basic instrumentation-infrastructure required for scientific and engineering investigations of a variety of coastal phenomena that are specific/relevant to all of the County's beaches, and the majority of Florida's sandy coasts (e.g. storm-induced beach erosion and recovery, protection afforded by dunes, longshore sand transport; rip currents, nearshore water quality and algae blooms, natural turbidity levels).
- c) Basic, long-term data required for the development and validation of tools and methods needed to support Florida's efforts to promote coastal resiliency, support emergency pre-storm preparations, and conduct post-storm forensics.
- d) Field-infrastructure and local background information/data with which to attract funding for basic research of littoral processes, particularly from federal agencies such as the National Science Foundation, NOAA, the U.S. Coastal Research Program, and the U.S. Army Corps of Engineers.
- e) Delivery via wireless communication – to St. Johns County on a regular basis once the instrument system is functional – of processed, concurrent, hourly data representing near-real-time wave, water level, and weather conditions at the instrument locations. Delivered data shall include standard (significant wave height, peak wave period, mean wave direction) and meteorological (wind speed and direction, barometric pressure, air temperature) parameters.
- f) Opportunities to involve the public, both in St. Johns County and throughout the State, in the educational/awareness afforded by a real-time nearshore wave & weather monitoring system.

II. PAYMENT PROVISIONS

The County agrees to provide the funding based on the following schedule for eligible costs as described. Funds for the County's Fiscal Year 20-21 (FY20-21) will be provided to the Friends within 15 days of the execution of this agreement. For each fiscal year that follows, the amount of funding provided to the Friends shall be addressed in an amendment to this MOU following the approval of the County's budget for that fiscal year. Note that the County operates on a Fiscal Year of October 1 – September 30.

FY20-21 (October 1, 2020 – September 30, 2021)

	Eligible Costs	Amount
Direct Costs (equipment, supplies and contractual services for the BDCF)		\$90,000
Indirect Costs (operational costs of the Friends)		\$10,000
	Total	\$100,000

The Friends shall provide to the County a report on the status of the BDCF on December 31, March 30, June 30, and September 30 for each year funding is provided.

The County's payment of funds under this agreement is contingent upon the appropriation of sufficient funds for that purpose by the Board. Pursuant to the requirements of Section 129.07, Florida Statutes, payments made under this agreement shall not exceed the amount appropriated in the County's budget for such purpose in that fiscal year. Nothing in this agreement shall create any obligation on the part of the Board to appropriate funds for any particular purpose during any given fiscal year.

III. GENERAL TERMS AND CONDITIONS

All terms and conditions verbally agreed to and/or stated in this MOU are subject to approval by the St. Johns County Board of County Commissioners and the Executive Director of the Friends.

a. Term.

It is understood and agreed that the relationship established by this Agreement is meant to be for the benefit of the Parties, and that this Agreement shall be effective on the date of execution by the Parties and shall remain in effect until September 30, 2025 unless terminated, suspended or modified in writing by an appropriate amendment executed by the Parties.

b. Default.

In the event that a Party becomes aware of a violation of the terms of this Memorandum of Understanding, the Party shall give Notice to the Party in Default in accordance with the Notice provisions of this section ("Notice of Violation"). Upon receiving the Notice of Violation, the Party who has committed the violation shall initiate corrective action within fifteen (15) days of receipt of the Notice of Violation and shall discontinue, abate, or cure the violations within thirty (30) days after receipt of the Notice of Violation, or a longer period of time if provided for in the Notice of Violation.

In the event that the violation is not discontinued, abated, or cured within the time provided in the preceding paragraph or by the Notice of Violation, the noticing Party shall be entitled to bring an action at law or in equity before a court of competent jurisdiction. Neither Party waives or forfeits their right to take such action as may be necessary to ensure compliance with this Memorandum of Understanding by any prior failure to act. Nothing in this agreement shall constitute a waiver of sovereign immunity.

c. Notices.

Any notices, demand, request or other instrument which may be or is required to be given under this Memorandum of Understanding shall be delivered in person, sent by United States Certified mail, postage prepaid, or sent by a reputable overnight courier service and

shall be addressed to the Parties at the address as hereinabove given. Any notice shall be deemed delivered upon hand delivery or three (3) business days after depositing in U.S. Mail, or one (1) business day after depositing such notice with a reputable overnight courier service. Any of the Parties may designate another address by giving written notice to the other PARTY. It is understood by the Parties that routine and non-agreement related communication will occur telephonically, via email and in person.

d. Amendments.

Amendments may only be made by the mutual consent of the parties with the same formality by which the original Memorandum of Understanding was approved.

e. Public Records.

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

f. Applicable Law/Venue.

This Memorandum of Understanding, the rights and obligations of the Parties hereto, and any claim or dispute relating thereto shall be governed by, interpreted, construed, and enforced in accordance with the laws of the State of Florida. Venue shall be in the Circuit Court for the Seventh Judicial Circuit in and for St. Johns County, Florida.

g. Successors and Assigns.

Except as otherwise expressly provided, all provisions herein shall be binding upon and shall inure to the benefit of the Parties, their legal representatives, successors and assigns. This Memorandum of Understanding shall not be assigned without written consent of the County.

h. Entire Agreement.

This Memorandum of Understanding and any Exhibits attached hereto constitute the entire agreement between the Parties. Any prior conversations or writings are merged herein and extinguished.

i. Partial Invalidity/Severability.

If any provision of this Memorandum of Understanding, or any application thereof to any person or circumstances shall to any extent be declared invalid, the remainder of this Memorandum of Understanding or the application of such provision to persons or circumstances (other than those as to which it is held invalid) shall not be affected thereby and each provision of this Memorandum of Understanding shall be valid and enforced to the fullest extent permitted by law.

j. No Partnership.

Nothing contained in this Memorandum of Understanding shall be deemed or construed so as to create the relationship of employer-employee, principal-agent, joint ventures, co-adventurers, or partners between the County and the Friends, and they are and shall remain independent one as to the other.

k. No Third-Party Beneficiaries

Nothing set forth herein shall be construed to give any rights or benefits in this Agreement to anyone other than the County, and the Friends, and all duties and responsibilities undertaken pursuant to this Memorandum of Understanding will be for the sole and exclusive benefit of the County and the Friends and not for the benefit of any other party.

l. Counterparts

This Memorandum of Understanding may be executed in three or more counterparts, each of which may be executed by one or more of the Parties hereto, but all of which, when delivered and taken together, shall constitute but one agreement binding upon all of the Parties hereto.

~~m.~~ Non-Exclusivity/Exclusivity

Nothing contained herein shall restrict either of the Parties from participating in similar activities with other public or private agencies, organizations, and individuals.

n. Interpretation

This Memorandum of Understanding shall not be construed more strictly against one of the Parties than against the others merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being recognized that COUNTY and the Friends have contributed substantially and materially to the preparation hereof.

o. Force Majeure

No party shall be considered in default in performance of its obligations hereunder to the extent that performance of such obligations, or any of them, is delayed or prevented by force majeure. Force Majeure shall include, but not be limited to, hostility, revolution, civil commotion, strike, epidemic, fire, flood, wind, earthquake, terrorism, hurricane, explosion, any emergency declaration under state law, or any act of God or any cause whether of the same or different nature, existing or future; provided that the cause whether or not enumerated in this Section is beyond the control and authority and without the fault or negligence of the party seeking relief under this Section.

p. Binding Authority

Each party hereto represents to the other that it has undertaken all necessary actions to execute this Memorandum of Understanding, and that it has the legal authority to enter into this Memorandum of Understanding and to undertake all obligations imposed on it.

q. Captions

The headings or captions of the sections and subsections contained herein are used for convenience and reference only, and do not, in themselves, have any legal significance and shall not be afforded any. They are in no way intended to describe, interpret, define or limit the scope, extent or intent of this Memorandum of Understanding, or any provision hereto.

r. 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.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties represent their intent on the date set forth below:

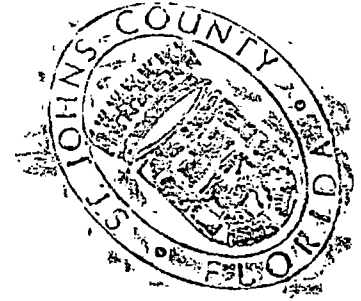
COUNTY:

ST. JOHNS COUNTY BOARD OF COUNTY COMMISSIONERS

By: 
Henry Dean, Vice Chairman

Vice Chair

Date of Execution: 1/21/21



FRIENDS OF THE GTM RESEARCH RESERVE:

By: 

Ellen Leroy-Reed

Executive Director

Date of Execution: 12/8/2020