

RESTATED INTERLOCAL AGREEMENT

Between

CITY OF DANIA BEACH

and

**HOWARD C. FORMAN, CLERK OF COURTS
SEVENTEENTH JUDICIAL CIRCUIT**

for

PROCESSING AND COLLECTION OF PARKING CITATIONS

THIS IS AN INTERLOCAL AGREEMENT made and entered into by and between:

THE CITY OF DANIA BEACH, a municipal corporation of the State of Florida, hereinafter referred to as "CITY,"

AND

HOWARD C. FORMAN, CLERK OF COURTS, SEVENTEENTH JUDICIAL CIRCUIT, BROWARD COUNTY, FLORIDA, hereinafter referred to as "CLERK."

WITNESSETH:

WHEREAS, the CITY'S parking ordinances provide for the issuance of parking citations for violations of CITY parking ordinances and state statutes; and

WHEREAS, the CITY has designated the Clerk of the Court as the entity responsible for processing parking citations and collecting fines imposed as a result of such citations; and

WHEREAS, the CITY has adopted the appropriate ordinances as are required by §§318.325, 316.1967(6) and 320.03(8), Florida Statutes, to delegate such responsibility to the CLERK for the processing of such parking citations and further refer parking citations matters to a hearing officer for enforcement to facilitate the proper enforcement of the parking violations; and

WHEREAS, the CITY wishes to reasonably compensate the CLERK a service fee for the processing of citations and the collection of such parking fines; and

WHEREAS, CITY and CLERK may have entered into an Interlocal Agreement to provide for the CLERK'S services; for the processing and collection of parking citations by the CLERK.

NOW, THEREFORE, in consideration of the mutual terms, conditions, promises, covenants, and payments hereinafter set forth, the CITY and the CLERK agree as follows:

1. SCOPE OF SERVICES

- 1.1 The CLERK shall process and collect all parking citations issued pursuant to the CITY parking ordinances.
- 1.2 CITY shall obtain at CITY'S sole expense parking citations to be issued to violators which shall conform to the technical requirements of the CLERK.
- 1.3 CLERK shall process all parking citations and late fees in a timely manner, but not to exceed fifteen (15) working days.
- 1.4 CITY shall provide CLERK with copies of CITY'S parking regulations, as may be amended from time to time, for use during hearings on contested parking citations as provided herein below. CITY shall be responsible for ensuring its parking regulations are updated with the CLERK, as CITY'S parking regulations may be amended from time to time.

2. FEES

- 2.1 CITY agrees to pay to the CLERK a base Service Fee of TWO DOLLARS AND FIFTY CENTS (\$2.50) for processing each municipal parking citation that is issued pursuant to the CITY'S parking ordinances. CITY also agrees, however, to pay to the CLERK an additional Service Fee of FIVE DOLLARS AND NO CENTS (\$5.00) (over and above the TWO DOLLAR AND FIFTY CENT (\$2.50) processing fee) for each issued municipal parking citation, which results in payment to the CLERK of the citation amount or late fees or both. In other words, issued and paid citations shall result in a net total payment to the CLERK of SEVEN DOLLARS AND FIFTY CENTS (\$7.50). Issued and as yet unpaid citations shall result in a net total payment to the CLERK of TWO DOLLARS AND FIFTY CENTS (\$2.50).
- 2.2 In the event CLERK enters into any agreements with any municipalities or other governmental entities to provide the same or similar service set forth herein, CLERK agrees to charge such municipalities or other governmental entities the same fees as provided herein, or as may hereinafter be renegotiated with and equally applicable to all governmental entities participating in the parking citation enforcement process as provided herein. Nothing herein shall prohibit CLERK from entering into a different contractual relationship with any municipality under the same fee schedule as set forth in this Section.
- 2.3 The CLERK shall prepare a monthly invoice to cover all Service Fees for all previously unbilled new citations entered into the CLERK'S computer system

during the preceding month. Each month the CLERK shall write a check and pay to the CITY an amount equal to all monies received for parking citations issued by CITY, less the amount billed for base Service Fees and collection service fees if any funds are due to an agency.

3. LOCATION AND AVAILABILITY OF CLERK'S PARKING CITATION DIVISION

- 3.1 The CLERK's Parking Citation Division is located at 201 Southeast Sixth Street, Fort Lauderdale, Florida 33301 (telephone number (954) 831-5804) or such other location(s) as may be agreed upon by the parties. The office will be open to the general public from 9:00 a.m. to 4:00 p.m., Monday through Friday, except on those days that have been established as legal holidays for employees of the CLERK as designated by the Chief Judge of the Seventeenth Judicial Circuit.
- 3.2 The Hearing Officer hearings on contested parking citations will be conducted at the main Broward County Courthouse located at 201 Southeast Sixth Street, Fort Lauderdale, Florida 33301 and at the West Regional Courthouse located at 100 North Pine Island Road, Plantation, Florida 33324, or such other locations as may be determined by the COURT from time to time. CITY shall be notified by CLERK of any changes in the location of the hearings.

4. ARCHIVING, FILE RETENTION AND BACKUP

- 4.1 On a monthly basis paid citations which are six (6) months old, and unpaid citations which are one (1) year old, shall be archived by CLERK. This data shall be placed on tape and maintained by CLERK off-site and retained in accordance with Florida Statutes. CLERK agrees that all data residing on the on-line system shall be backed up daily and that a weekly back up shall be performed and stored off-site. Records shall be maintained in accordance with the rules promulgated by the State of Florida, Division of Archives, History and Records Management.
- 4.2 The CLERK is recognized as the Custodian of all records and data generated pursuant to this Agreement as defined in the Public Records Act of the State of Florida, Chapter 119, Florida Statutes.

5. REPORTS

The CLERK shall provide management and financial reports on a monthly basis to the CITY, which provide for, but are not limited to: 1) auditable inventory control of all citations received by CLERK, 2) numeric sequencing of all citations processed through the system, indicating citations collected, and indicating total dollars collected, 3) Service fees charged for citations processed and citations collected.

6. CLERK'S RESPONSIBILITIES

- 6.1 The CLERK'S Parking Citation Division can be contacted by telephone at (954) 831-5804. CITY shall be promptly notified in the event the telephone number is changed. The hours of service will be from 9:00 a.m. through 4:00 p.m., Monday through Friday, excepting regularly scheduled holidays as established by the Chief Judge.
- 6.2 Provide security of all data processing files in accordance with established security policy standards and guidelines in accordance with Florida Statutes and the Florida Administrative Code.

7. MATTERS BEYOND THE CONTROL OF THE CITY AND CLERK

Neither the CITY nor CLERK shall be responsible for any failure or delay in performance hereunder due to circumstances beyond their reasonable control including, without limitation, Acts of God, accidents, mechanical, power failures, acts, omissions and defaults of third parties and official, governmental and judicial action beyond their control. In the event of occurrences, which require the implementation of a Disaster Recovery Plan, the CLERK shall use its best efforts to provide a level of service consistent with this Agreement.

8. AMENDMENTS

No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

9. NOTICES

All written notices, as provided herein, shall be by hand delivery or by U.S. Mail, certified, return receipt requested, and addressed as follows:

CITY: City of Dania Beach
Attn: Robert Baldwin, City Manager
100 West Dania Beach Blvd.
Dania Beach, Florida 33004

CITY: City of Dania Beach
Attn: Thomas J. Ansbro, City Attorney
100 West Dania Beach Blvd.
Dania Beach, Florida 33004

CLERK: Howard C. Forman, Clerk of Court
Broward County Courthouse
201 Southeast Sixth Street
Fort Lauderdale, Florida 33301

10. EFFECTIVE DATE AND TERMINATION

- 10.1 This Interlocal Agreement shall be effective March 7, 2012, *nunc pro tunc*, and for an additional one-year term effective March 7, 2013. Beginning March 7, 2014, this Agreement shall automatically renew for yearly terms thereafter and without necessity for re-approval or re-execution unless either party gives notice in writing to the other of intent not to renew. Any such notice must be delivered on or before ninety (90) days from the anniversary date of the Agreement.
- 10.2 This Agreement may be terminated by either party without cause upon sixty (60) days written notice during the first year of the Agreement and ninety (90) days written notice to the other party thereafter.

11. PRIOR AGREEMENTS

This Agreement shall supersede any prior or existing agreements between the CITY and CLERK pertaining to the subject-matter herein and said prior or existing agreements shall have no force and affect upon execution of this Agreement.

12. MISCELLANEOUS

- 12.1 The parties hereto understand and agree that the parties are self-insured and do not intend to purchase insurance in connection with this Agreement.
- 12.2 Each party agrees to be fully responsible for its acts of negligence or its agent's acts of negligence when acting within the scope of this Agreement and agrees to be liable for any damages resulting from said negligence pursuant to the terms of §768.28, Florida Statutes. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency to which sovereign immunity may be applicable. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.
- 12.3 This Agreement does not create an employee/employer relationship between the parties. It is the intent of the parties that CITY and CLERK are independent contractors under this Agreement and neither is the employee of the other for all purposes, including, but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, the State Workers Compensation Act, and the State unemployment insurance law. The parties shall each retain sole and absolute discretion in the judgment of the manner and means of carrying out the their

activities and responsibilities hereunder provided, further that administrative procedures applicable to services rendered under this Agreement shall be those of each individual party. Services provided by each party pursuant to this Agreement shall be subject to the supervision of such party. In providing such services, neither party nor its agents shall act as officers, employees, or agents of the other party. The parties agree that they are separate and independent enterprises, and that each has the ability to pursue other opportunities. This Agreement shall not be construed as creating any joint employment relationship between the Parties and neither party will be liable for any obligation incurred by the other party, including, but not limited to, unpaid minimum wages and/or overtime premiums.

- 12.4 Neither party intends to directly or substantially benefit any third party by this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either party based upon this Agreement. The parties expressly acknowledge that it is not their intent to create any rights or obligations in any third persons or entity under this Agreement.
- 12.5 It is acknowledged that each party to this Agreement had the opportunity to be represented by counsel in the preparation of this Agreement and, accordingly, the rule that a contract shall be interpreted strictly against the party preparing same shall not apply due to the joint contribution of both parties.
- 12.6 Headings herein are for convenience of reference only and shall not be considered on any interpretation of this Agreement.
- 12.7 If any provision of this Agreement or application thereof to any person or situation shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, and the application of such provisions to persons or situations other than those as to which it shall have been held invalid or unenforceable shall not be affected thereby, and shall continue in full force and effect, and be enforced to the fullest extent permitted by law.
- 12.8 This Agreement shall be governed by the laws of the State of Florida with venue lying in Broward County, Florida.
- 12.9 This Agreement constitutes the final, complete, and exclusive embodiment of the entire agreement and understanding between the parties and supersedes and preempts any prior or contemporaneous understandings, agreements, or representations by or between the parties, written or oral.

IN WITNESS WHEREOF, the parties have made and executed this Interlocal Agreement on the respective dates under each signature: _____ through its Mayor and City Manager, authorized to execute same by CITY action on the _____ day of _____, 20____, and Howard C. Forman, Clerk of Courts, Seventeenth Judicial Circuit.

CITY:

ATTEST:

CITY OF DANIA BEACH,
a Florida municipal corporation

LOUISE STILSON, CMC
CITY CLERK

, MAYOR

DATE: _____, 2012.

APPROVED AS TO FORM AND
CORRECTNESS:

THOMAS J. ANSBRO
CITY ATTORNEY

CLERK:

WITNESSES

Kathleen L. Mayes
Bob Smith

Howard C. Forman
Howard C. Forman, Clerk of Court
Seventeenth Judicial Circuit

DATE: Aug .23, 2012.