

PARKING AND ENFORCEMENT AGREEMENT

THIS IS AN AGREEMENT, entered into on the _____ day of _____, 2016, between:

CITY OF FORT LAUDERDALE, a municipal corporation of the state of Florida, hereinafter referred to as "City",

and

CHRIST CHURCH UNITED METHODIST, INC., a Florida not-for profit corporation, hereinafter referred to as "Church",

WHEREAS, the City Commission of the City of Fort Lauderdale, Florida, at its meeting of _____, 2016 authorized the City Manager to enter into this Agreement; and

WHEREAS, the Christ Church is the owner of that certain parking lot located at NE 24 Terrace, Folio # 494224080012, Fort Lauderdale, Florida, 33308, (See attached Exhibit "A",) hereinafter referred to as "Property" and more particularly described in the attached Exhibit "A"; and

WHEREAS, the Church is requesting to allow the City to install and maintain parking meters and permit parking on the Property in exchange for City agreeing that the Church shall retain the monthly parking meter and permit revenue derived by City from said Property; and,

WHEREAS, the City agrees to monitor 50 spaces being metered or permitted at least twenty-three (23) hours a day, six (6) days a week excluding Sunday to ensure that patrons pay the parking fees due and, as necessary, enforce payment of the parking fees at the minimum by issuing citations to violators and that the property is maintained properly. At the minimum, such monitoring shall include the physical patrol of the Property by the City's parking enforcement officer. The City shall provide monthly documentation to the Church which confirms that it is monitoring these parking meters and permits at least twenty-three (23) hours a day, six (6) days a week excluding Sunday, and,

WHEREAS, the City will charge the Church a monthly fee in an amount that ensures City cost recovery, at a minimum, out of the revenues collected to collect, maintain, monitor and enforce parking requirements on the Property, and

WHEREAS, Church shall be billed monthly for the costs payable under this Agreement and the City agrees to provide a monthly itemized invoice to Company outlining all such costs; and

WHEREAS. Properties above defined are deemed public access lots and permit thoroughfare and parking for the general public; and

WHEREAS, the City finds that providing parking enforcement services for the Church serves a legitimate municipal purpose; and

WHEREAS, Church shall be billed monthly for the costs payable under this Agreement and the City agrees to provide a monthly itemized invoice to Company outlining all such costs; and

WHEREAS, the Church agrees to allow City to retain citation revenue derived by City from said parking meters and permit violations; and

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and adequacy of which are acknowledged, the parties agree as follows:

1. Recitations. The recitals set forth above are true and correct and are incorporated into this Agreement by this reference as if fully set forth herein.
2. Subject to the terms and conditions set forth below, the Church hereby authorizes the City to install and maintain the parking meters at the Property more particularly described in the attached Exhibit "A".
3. The term of this Agreement shall be for a period of one (1) year commencing on the date of execution by all parties unless otherwise terminated as provided herein, with an option for three (3) 1-year renewals of this Agreement.
4. City shall pay to the Church the monthly revenue from parking meters and parking permits minus sales taxes and monthly management fee of Eight Hundred and Seventy-Three (\$873.00) Dollars. Payment to the Church shall be made on a monthly basis and the City shall be provided with thirty (30) calendar days to process monthly payments to the Church. Payment by the church of the monthly management fee shall not exceed revenue collected if revenue is less than Eight Hundred and Seventy-Three (\$873.00) Dollars.
5. It is hereby agreed by and between the City and the Church that upon the termination of this Agreement, the City shall have the right to remove from the Property all of City's parking meters and/or personal property there located upon the Property, including, but not limited to, signs and any other property owned by City. The City agrees that the cost of removing such items

shall be borne by the City.

6. This Agreement and any option of renewal may be terminated with or without cause at any time by either party upon sixty (60) days written notice. In the event of termination, the City shall within sixty (60) days of termination pay to the Church its share of the revenue prior to termination and remove meters and property as provided in Paragraph 5 of this Agreement.
7. The Church hereby grants City the right to install, maintain, and repair the parking meters, and also for the City to install, maintain and repair property signs and any other property or items which City may deem desirable.
8. The City shall at all times maintain these parking meters and signs in a condition at all times, ordinary wear and tear excepted.
9. The Church warrants and represents to the City that it is the owner of the Property and further represents and warrants that the Property is presently used as a parking area. The Church has granted a non-exclusive ingress and egress easement over the property described in Exhibit "A" for those persons going to and from the building now described as the Coastal Towers. City agrees not to hinder or obstruct said access.
10. The Church agrees that the City shall have the right of ingress and egress to the Property aforementioned for any and all purposes required by the City pertaining to the use of the Property as a parking lot. The installation, maintenance, repair, collection of revenues and enforcement of ordinances applicable to such metered or permitted parking shall be accomplished by the City at the costs stated herein.
11. Church reserves, without charge, the exclusive use and occupancy of said Property for its own purposes on each and every Sunday (a twenty four hour period) and at any other time with 72 hour notice during the term of this Agreement.
12. The City is a self-insured entity, and therefore, any and all claims arising as a result of the City's use of the Property shall be processed through City's Risk Management Office. Each party agrees to be fully responsible for its acts of negligence or its agents' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence. However, nothing contained herein shall constitute a waiver by the City or the Church of its sovereign immunity protection or of its rights and limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

13. The Church shall protect, defend, indemnify and hold harmless the City, its officers, employees and agents from and against any and all lawsuits, penalties, damages, settlements, judgments, decrees, costs, charges and other expenses including attorney's fees or liabilities of every kind, nature or degree arising out of or in connection with the rights, responsibilities and obligations of Company under this Agreement, conditions contained herein.
14. At all times during the term of this Agreement, Church, at its expense, shall keep or cause to be kept in effect the following insurance coverage:
- (a) general liability insurance policy, in standard form, insuring Association and City as an additional insured, against any and all liability for bodily injury or property damage arising out of or in connection with this Agreement and the license granted herein with a policy limit of not less than One Million Dollars (\$1,000,000.00) per occurrence and Two Million Dollars (\$2,000,000.00) general aggregate and shall name the City as an additional insured. All such policies shall cover the activities under the Agreement, including, but not limited to the possession, use, occupancy, maintenance, repair, and construction of additions, modifications, renovations or demolition of the Leased premises or portions thereof. This policy shall not be affected by any other insurance carried by City.
 - (b) The minimum limits of coverage under subsection (a) may be adjusted by City, in City's sole discretion, every five (5) years, on the anniversary date of the Effective Date of this Lease, in accordance with the increase or decrease in the Consumer Price Index for "All Urban Consumers, U.S. All Items (1982 – 1984 = 100)" (hereinafter, CPI) published by the Bureau of Labor Statistics of the United States Department of Labor, or any comparable successor or substitute index designated by City. For the purposes of this subparagraph, the beginning CPI figures shall be the most recently published index figures in effect as of the Effective Date hereof. On the date(s) of adjustment, the adjusting figures shall be the most recently published figures in effect on the subject adjustment date(s).
 - (c) All personal property placed or moved onto the Properties is at the sole risk of the Company or other owner of such property. City shall not be liable for any damage to such personal property or for personal injuries to the Company or any of Company's subtenants, agents, servants, employees, contractors, guests, or invitees or to trespassers on the Properties.

15. Limitation of Liability

The City desires to enter into this Agreement only if in so doing the City can place a limit on the City's liability for any cause of action for money damages due to an alleged breach by the City of this Agreement, so that its liability for any

such breach never exceeds the sum of \$1,000. Contractor hereby expresses its willingness to enter into this Agreement with Contractor's recovery from the City for any damage action for breach of contract or for any action or claim arising from this Agreement to be limited to a maximum amount of \$1,000 less the amount of all funds actually paid by the City to Contractor pursuant to this Agreement. Accordingly, and notwithstanding any other term or condition of this Agreement, Contractor hereby agrees that the City shall not be liable to Contractor for damages in an amount in excess of \$1,000 which amount shall be reduced by the amount actually paid by the City to Contractor pursuant to this Agreement, for any action for breach of contract or for any action or claim arising out of this Agreement. Nothing contained in this paragraph or elsewhere in this Agreement is in any way intended to be a waiver of the limitation placed upon City's liability as set forth in Section 768.28, Florida Statutes.

16. Right to Audit City Records by Church. The City shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds under this Agreement. All City's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by Church's agent or its authorized representative to permit Church to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments, revenue, and/or claims submitted by the City or any of City's payees pursuant to this Agreement. The City's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. The City's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all revenues and expenditures under this Agreement.
17. City's Records Defined. For the purposes of this Agreement, the term "City's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, revenues and expenditure, reconcile or refute any charges and/or expenditures related to this Agreement.
18. Duration of Right to Audit. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, Church's agent or authorized representative shall have access to City's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of

five (5) years after the termination of this Agreement or five (5) years after the date of final payment by Church to the City pursuant to this Agreement.

19. Notice of Audit. Church's agent or its authorized representative shall provide City advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

20. This Agreement shall be governed by the laws of the State of Florida. The parties waive the privilege of venue and agree that all litigation between them in the state courts shall take place in Broward County, Florida, and that all litigation between them in the federal courts shall take place in the United States District Court for the Southern District of Florida.

21. Public Records

Church shall:

(a) Keep and maintain public records that ordinarily and necessarily would be required by the City in order to perform the service.

(b) Provide the public with access to public records on the same terms and conditions that the City would provide the records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes (2015), as may be amended or revised, or as otherwise provided by law.

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.

(d) Meet all requirements for retaining public records and transfer, at no cost, to the City, all public records in possession of the contractor upon termination of this contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the City in a format that is compatible with the information technology systems of the City.

22. NOTICE All notices required by law and by this Agreement to be given by one party to the other shall be in writing, and the same shall only be deemed given if as follows:

By certified mail, return receipt requested, or by hand delivery, to the following addresses:

CITY: CITY OF FORT LAUDERDALE
CITY MANAGER
100 NORTH ANDREWS AVENUE
FORT LAUDERDALE, FLORIDA 33301

CHURCH: CHRIST CHURCH UNITED METHODIST, INC.
4845 NE 25TH AVE
FORT LAUDERDALE, FLORIDA 33308

Or to such other addresses as the parties may by writing designate to the other party.)

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IN WITNESS OF THE FOREGOING, the parties have set their hands and seals the day and year first written above.

CITY

ATTEST:

CITY OF FORT LAUDERDALE, a
municipal corporation of the State of
Florida.

JEFFREY A. MODARELLI
City Clerk

LEE R. FELDMAN, City Manager

(SEAL)

Approved as to form:

COLE J. COPERTINO
Assistant City Attorney

Church

WITNESSES:

CHRIST CHURCH UNITED METHODIST,
INC. a Florida not for profit corporation.

[Witness Print Name]

By _____
☐ STEPHEN ENGLE, President or
☐ JAMES O'MURPHY, JR.,
Vice President
ATTEST

[Witness Print Name]

MELISSA DORE, Secretary

(CORPORATE SEAL)

STATE OF FLORIDA:
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this _____ day of
_____, 2016 by _____ as
_____ for CHRIST UNITED METHODIST CHURCH, INC. a
Florida not for profit corporation.
SEAL

Notary Public, State of Florida

Name of Notary Typed, Printed or Stamped

☐ Personally Known or ☐ Produced Identification:

Type of Identification Produced _____

SKETCH & DESCRIPTION FOR:

EXHIBIT A

A PORTION OF PARCEL A & LOT 23, BLOCK. 4

(P.B. 40, PG. 18, B.C.R.)

CITY OF FORT LAUDERDALE, BROWARD COUNTY, FLORIDA

