

**AGREEMENT BETWEEN
UNIVERSITY OF MICHIGAN
AND
THE CITY OF ANN ARBOR**

**Municipal Parking Citation Processing, Collections
And Record Management Services**

The City of Ann Arbor, a Michigan municipal corporation, having its offices at 301 East Huron Street, Ann Arbor, Michigan 48104 ("City") And The Regents of the University of Michigan ("University"), with offices at 3040 Fleming Building, Administration, 503 Thompson St, Ann Arbor, 48109-1430, agree as follows:

The City agrees to provide services to the University under the following terms and conditions:

I. DEFINITIONS

- A. The "Contract Administrator" means City Treasurer or authorized designee.
- B. The "University Contract Administrator" means Facility and Operations, UM Business Manager or authorized designee.
- C. "Deliverables" means any reports, statistical analysis, document transfers required by the terms of the contract.

II. DURATION

This agreement shall become effective on January 1, 2014, and shall remain in effect until December 31, 2018, unless terminated for breach or as provided herein. The contract may be extended at the discretion of the City Administrator for an additional three-year period terminating no later than December 31, 2021, incorporating the original scope of services and the compensation detailed in the fee schedule as provided in Exhibits A, B, and C attached hereto.

III. SERVICES

- A. General Scope: The City agrees to provide services as described in the attached exhibits incorporated herein:
 - i. Exhibit A: Scope of Work
 - ii. Exhibit B: Operation Requirements of the University
 - iii. Exhibit C: Fees
- B. Change Orders: The City may at any time, by giving proper notice may issue change orders to Services provided under this contract, including but not limited to additions or deletions to portions of the Deliverables.

If the changes add or deduct from the extent of the Services, the contract amount shall be adjusted accordingly. All such changes shall be

executed under the conditions of the original agreement. A change order shall not be binding on the City unless signed by the Administrator or his/her designee. A copy of the authorized Change Order request shall be mailed to the University as required in Exhibit C (7) - Notices of this agreement.

- C. Quality of Services/Equipment: The City's standard of service under this agreement shall be of the level of quality performed by professionals regularly rendering this type of service.
- D. Compliance with Applicable Law: The City shall perform its services under this agreement in compliance with all applicable laws and ordinances.
- E. Notice of Delay: The City, or the City's Subcontractor, shall be responsible to notify the University promptly of any factor, occurrences, or event coming to its attention that may affect the delay or interruption of City's deliverables of which it has actual notice. Neither the City nor University shall be responsible for delays or lack of performance resulting from acts or events beyond the reasonable control of the City or University. Such acts shall include, but not be limited to, acts of God; fire; strike; compliance with laws or regulations, riots; acts of war; or any other conditions beyond the reasonable control of the party or parties. Failure to promptly notify the University shall not impose any obligation or liability of any kind upon the City or its Subcontractor.
- F. Transfer Back: The City agrees to provide the University with the necessary documentation to transfer back to the University all related collection activity at termination of the contract. Documentation shall be provided in format maintained by the City, unless another format is mutually agreed upon by the parties. Any and all cost associated with the transfer of activities back to the University, including the provision of documentation, shall be the responsibility of the University. Each party retains ownership of its respective base collection data during the contract term.
- G. Confidential Information: The University shall not disclose to any person or entity any information identifying, characterizing or relating to any risk, threat, vulnerability, weakness, or problem regarding the City's data security or to any safeguard, countermeasure, contingency plan, policy, or procedure for data security contemplated or implemented by City, without City's prior written approval.

The University shall not disclose matters relating to this contract to any person or entity except as may be otherwise provided herein or required by law. The University agrees to notify the City in writing on receipt of any request for information. Approval by the City of release of the request information in relating to this contract shall not be unreasonably withheld.

Consistent and/or uncorrected breaches of confidentiality will constitute grounds for cancellation of the contract for cause.

IV. OBLIGATIONS OF THE CITY

The City agrees to provide the University access to City staff during normal business hours as required to perform services under the agreement. Should it be necessary for the University to contact the City's Subcontractor in connection with the performance of services under this agreement, the City agrees to coordinate contact on provision of two business days notice. The City shall fulfill its mutually agreed to obligations identified in Exhibit A – Scope of Work, when necessary, in order for the University to perform under this agreement in a timely manner.

V. ASSIGNMENT

- A. The City will have the right to subcontract or assign any portion of this collection service.
- B. The City agrees to require all persons performing any portion of the collection services under this Agreement to be bound by all terms and provisions of the Agreement, and, in particular, will specifically require all such persons to become familiar with Section III (G) - Confidential Information.

VI. RELATIONSHIP OF PARTIES

The parties of this agreement agree that it is not a contract of employment but is a contract to accomplish a specific result. The City is an independent contractor performing services for the University. Nothing contained in this agreement shall be deemed to constitute any other relationship between the University and the City.

VII. COMPENSATION TO CITY

- A. The compensation to the City for collection activities on behalf of the University is outlined in Exhibit C. This fee includes charges for all City personnel associated with the agreement and any other expenses the City expects to incur.
- B. The City will provide the University, on request, with records that verify the collections on behalf of the University.
- C. It is understood and agreed between the parties that the fees stated in Exhibit C are inclusive of any and all remuneration to which the City may be entitled.

VIII. INDEMINIFICATION

- A. Subject to the limitations of subparagraph B, to the extent permitted by law, the University agrees to indemnify, and hold harmless the City and its employees and agents for the acts or omissions of the University under this agreement, and the City, to the extent permitted by law, agrees to indemnify and hold harmless the University and its Regents, employees and agents for the acts or omissions of the City under this agreements. Notwithstanding the above, the City reserves its right to assert any and all defenses provided it under law or equity, including but not limited to governmental immunity.
- B. In the event of joint or concurrent negligence of the University and the City, each shall pay its own costs and expenses incurred in defending against the action and each shall pay that portion of the loss or expense that its share bears to the total negligence by a court of competent jurisdiction.
- C. Each party agrees to give the other prompt notice of any claim, demand or action and shall to the extent the party is not adversely affected cooperate fully with the other party in defense or settlement of said claim, demand or action.

IX. TERMINATION OF AGREEMENT

- A. This agreement may be terminated by either party in the case of a breach of this agreement by the other Party, if the breaching party has not corrected the breach within 30 days after notice of termination is given in conformance with the terms of this agreement; or, if not capable of cure within such period, if the Party has not begun the process of effectuating a cure provided that any cure is completed with ninety days of notification of breach.

The City's waiver of any term, condition, breach, or default of this Contract shall not be considered to be a waiver of any other term, condition, default, or breach, nor of a subsequent breach of the one waived. Failure of the City to enforce at any time, or from time to time, any provision of this agreement shall not be construed as a waiver thereof.

- B. The City or the University shall have the privilege, with or without cause, to cancel and annul this agreement at any time on 180 days written notice to the University in accordance with the notice provisions contained in this agreement. This right is in addition to the right of termination specified above in A. Otherwise, it continues in effect.

XV. NOTICE

All notices and submissions required under the agreement shall be by personal delivery or by first-class mail, postage prepaid, to the address stated in this agreement or such other address as either party may designate by prior written notice to the other. Notice shall be considered delivered under this agreement when personally delivered to the Contract

Administrator or placed in the U.S. mail, postage prepaid to the Administering Department, care of the Contract Administrator.

XVI. CHOICE OF LAW

This agreement shall be construed, governed, and enforced in accordance with the laws of the State of Michigan. By executing this agreement, the Consultant and the City agree to venue in a court of appropriate jurisdiction sitting within Washtenaw County for purposes of any action arising under this agreement

XVII. SEVERABILITY OF PROVISIONS

Whenever possible, each provision of this agreement will be interpreted in a manner as to be effective and valid under applicable law. However, if any provision of this agreement or the application of any provision to any party or circumstance will be prohibited by or invalid under applicable law, that provision will be ineffective to the extent of the prohibition or invalidity without invalidating the remainder of the provisions of this agreement or the application of the provision to other parties or other circumstances.

XVIII. EXTENT OF AGREEMENT

This agreement, including any exhibits and attachments thereto, represents the entire understanding between the City and the University, and it supersedes all prior representations or agreements whether written or oral. Neither party has relied on any prior representations in entering into this agreement.

This agreement may be altered, amended or modified only by written amendment signed by the University and the City.

City of Ann Arbor

Regents of the
University of Michigan

John Hieftje, Mayor

Henry Baier
Associate Vice President for Facilities and
Operations

Jacqueline Beaudry, City Clerk

Approved as to Substance:

Approved as to Form:

Steven D. Powers
City Administrator

Stephen K. Postema
City Attorney

Exhibit A

Scope of Work

The agreement will consist of the following collection services provided by the City of Ann Arbor to the University of Michigan.

1. Collection Efforts. Upon receipt of the University ticket file as specified in Exhibit B, the City and/or its Subcontractor will begin the collection efforts identified as: receipting of payments, mailing notifications, obtaining registration information, and appeal process services.
2. Impoundments. For the purposes of improving enforcement, compliance, and collection of outstanding parking citations issued, the City and University agree on the following interpretations:
 - a. The University has assigned all University issued citations to the City for collection purposes.
 - b. According to Exhibit C of this contract, revenue collected as a result of an impoundment associated with University citations remains with the City.
 - c. All University issued parking citations are written in the City of Ann Arbor.

Based upon these interpretations, all university issued citations may be collected by the same means used to collect City issued citations, including impoundment. The following is the criteria used to determine if a vehicle is tow eligible for excessive parking violations:

- a. Writ Tow - 4 or more citations in writ status (City and/or University - may be combined)
- b. Default Tow - 6 or more citations in default status (City and/or University - may be combined)
- c. Heavy Hitters Tow - 6 or more citations with an outstanding balance of greater than \$300 (City and/or University - may be combined)

The City will provide University parking enforcement with impoundment information. The City will obtain Writs of Execution for owners with a total of four (4) or more unpaid parking citations which include any combination of City and/or University citations with outstanding default notices. The City and the University will each check the "tow-list" daily when issuing parking violations. When the University discovers a vehicle on the "tow-list", its Public Safety dispatcher will notify the City Parking Enforcement dispatcher so the City can initiate the tow procedure.

All other aspects of impoundment shall be governed by a certain *Towing and Impoundment of Vehicles with Excess City or University Parking Violations Memorandum of Understanding* between the Parties dated April 19, 2013, which is incorporated here by reference.

3. Reporting. The City will provide, along with monthly revenue due the University, a (1) monthly revenue summary report that shows the monthly revenue collected, amounts deducted, and the net revenue due the University, (2) a U of M vehicle report that shows citations issued to University vehicles on both UM and City

property and the amount to be deducted from monthly revenue due the University, (3) an aged accounts payable report that shows the total number of University tickets issued and the value of those tickets at each status, and (4) a monthly returned item report that lists payments that were returned as unpaid on University tickets and the amount to be deducted from monthly revenue due the University.

Exhibit B

Operational Requirements of the University

In order for the City to provide collection services under this contract the University is required to provide the City with the following:

1. Parking Ticket Printing. The University will be responsible for the printing of all parking tickets for parking violations issued on University property (“University parking violations”). The format and wording shall be structured to implement the collection methods used by the City as summarized in Exhibit A. The University will continue to use ticket and ticket envelope language that complies with the Letter of Agreement between the City and the University dated August 13, 2003, (incorporated here by reference) which states that the University consents to the City utilizing a subcontractor for parking ticket processing and collections, while the City agrees to remain fully responsible for the enforcement and collection activities and all other activities under this agreement.
2. Equipment. The University shall maintain necessary equipment and software, including any necessary upgrades, as required to interface with the City and/or City’s Subcontractor’s ticket management system. Under the current agreement with the City’s Subcontractor, the Subcontractor has agreed to provide the University with handheld devices, subject to the University’s testing and approval.
3. Data Transmission. The University will send its ticket data file to the City’s Subcontractor daily, or in real time if possible, in a format and manner to be agreed upon by the parties. The City or its Subcontractor upon receiving the ticket data file from the University will perform collection activities. The University shall upload its “tow-list” daily.

The provision of information to either party required under this Exhibit shall be by electronic access to the City ticket management system unless otherwise provided in this agreement or mutually agreed upon by the parties.

4. Sworn Statement. The University will ensure that its parking enforcement officers complete a daily sworn statement of tickets issued as required by law. On or before the time of ticket issuance, the University shall create all records necessary to establish in court the validity of the tickets issued. It shall retain the original records for individual tickets for at least four (4) years after the date of ticket issuance.
5. Defective Meters. The University will provide to the City or its Subcontractor a list of defective meters and the status of their repair on a weekly basis.

Exhibit C

Fees

1. Parking Ticket Revenue. During the month following collection, The City will send to the University collections from all University issued parking violations corresponding to report codes "Ticket," "Notice," "Final," partial payment "P.P." and "Hold." Payment will be mailed to the University Cashier's Office on or before 15th day of the month unless another date is agreed to in writing by the City Treasurer and the University.

2. Reimbursement for Collections and Appeals. Reimbursement shall be made monthly for actual costs paid to the City's Subcontractor for processing and collections activities at a rate of \$1.92 per citation processed. Reimbursement will be based on the prior month's collection data. Pro rata reimbursements will be deducted from monthly revenue due the University.

The University shall reimburse the City monthly for the costs to provide one parking referee to adjudicate University parking ticket appeals, for contract administrative duties, information systems activities, and other collection activities such as abandoned vehicles, jurisdictional tickets, etc. The monthly fee for said services is illustrated in the table below.

The City will remit revenue due the University from ticket collection activities less any pro rata reimbursements based on the following table:

UM Ticket Revenue
Ticket, Notice, Final, Partial Payment (P.P.), and Hold statuses: 100%
Impound, Writ, All Tow, and K Status (if applicable): 0%
UM will be charged \$1.92 per University ticket issued (pass-through charge) to reimburse the City for third party vendor costs. Pro rata reimbursements will be deducted from monthly revenue due the University.
<p>UM will reimburse the City:</p> <p>\$20,373 monthly in 2014; \$20,985 monthly in 2015; \$21,614 monthly in 2016; \$22,263 monthly in 2017; and \$22,930 monthly in 2018.</p> <p>If the contract is extended for the additional three year term, UM will reimburse the City:</p> <p>\$23,618 monthly in 2019; \$24,327 monthly in 2020; and \$25,057 monthly in 2021.</p>

3. University Appeal Criteria. All requests for appeal of University tickets shall be heard through the City Parking Referees. The City and University Parking Services shall meet as necessary, at the request of either the City or University Parking Services, to review University appeal criteria. University Parking Services will provide the appeal criteria and may, on occasion, request that certain University parking citations be waived by the City. University Parking Services shall provide a written request to the City for certain citations to be waived.
4. University Payment of Citations. If the University wants to pay for a citation, an e-mail will be sent to the City's Deputy Treasurer. The message will state the request, and include a scanned copy of the citation. Requests will be accepted only from authorized University personnel. The City will mark the citation as paid and post a description of the payment type in the parking system. The amount of all citations paid in this fashion will be deducted from the City's monthly remittance to the University.
5. Court Proceedings. The University hereby appoints the City Attorney's Office as its attorney solely for the purpose of representing the University in court proceedings for parking tickets subject to this agreement. The University agrees that it will produce parking enforcement officers and other officials for testimony if necessary. No additional compensation shall be required for such representation other than set forth in Provision 5 of this agreement. The City Attorney's Office shall immediately notify the University's Office of the General Counsel of any contested court proceedings for violations of the Regents Ordinance which challenge the legality or constitutionality of the Regents Ordinance or that raise significant public policy issues. The University reserves the right to have the Office of the General Counsel or designated outside counsel act as co-counsel in such court proceedings.
6. City Tickets on University Vehicles. Each month the City shall subtract the value of City tickets issued to University vehicles from payments otherwise due the University under Provision 4 of this Exhibit, if the University provides an electronic file accurately listing, by license number, all vehicles owned and operated by the University. The University reserves the right to challenge the validity of tickets on an individual basis.
7. Notices. Unless stated otherwise under specific provision of this agreement, all notices and communications required under this agreement shall be in writing and be effective five (5) days after execution of the agreement.