

PARKING AGREEMENT

THIS PARKING AGREEMENT (the "Agreement") is made and entered into as of this _____ day of _____, 2016 (the "Effective Date"), by and between the City of Coral Gables, a municipal corporation of the State of Florida, (the "City"), whose address for purposes hereof is 405 Biltmore Way, Coral Gables, Florida 33134, and Zipcar, Inc. (Zipcar), whose address for purposes hereof is 21 SE 2nd Ave, Miami, Florida 33131. In consideration of the mutual promises hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and shall not be contested, City and Zipcar hereby covenant and agree as follows:

PARKING TERMS AND CONDITIONS

I. THE AGREEMENT: The City owns certain parking spaces within the Public Right of Way within the City of Coral Gables (the "Parking Spaces"). The City and Zipcar wish to enter into a Parking Agreement regarding four (4) parking spaces located within the ROW. Specifically, the City hereby agrees to allow Zipcar to use a total of four (4) available parking spaces to operate a car sharing service in consideration for Zipcar's payment of \$100 per parking space on or about the first day of each month that Zipcar operates the car sharing service.

II. TERM, TERMINATION AND RENEWAL: The term of this Agreement (the "Term") shall commence on July ___, 2016, and shall continue for a period of one (1) year; provided, however, that either party shall have the right to terminate this Agreement at any time upon at least ninety (90) days' prior written notice. The Agreement may be extended for up to 3 additional one (1) year terms upon the mutual agreement of the parties.

III. USE AND OPERATION: Throughout the Term, Zipcar hereby acknowledges and agrees that the City retains the right to select the specific parking spaces to be used for the car sharing service. Two (2) of the spaces provided will be located at or near the intersection of Ponce and Alhambra Circle and Two (2) of the spaces will be located at or near the intersection of Alcazar and Salzedo. Zipcar hereby agrees that it shall utilize the four (4) spaces in a manner consistent with all applicable Federal, State and municipal laws, rules or regulations. The City and Zipcar hereby acknowledge and agree that nothing in this Agreement shall limit the City's right to access the parking spaces for any reason.

Zipcar and its members shall have the right to use the parking spaces designated by the City for the sole purpose of parking Zipcar vehicles. The City shall provide Zipcar, its members, and its third party personnel with 24 hour, 7 day a week unrestricted access to designated parking.

Zipcar vehicles may only park in designated parking spaces without the payment of meter charges and may park in such spaces for longer than the maximum amount of time allowed in the specified meter zone.

IV. CITY RESPONSIBILITIES: The City will allow Zipcar vehicles to park in the spaces designated for Zipcar vehicle only. Those vehicles shall be identified by the Zipcar logo and will not be ticketed for the following offenses:

- a. Failure to deposit payment at a meter.
- b. Failure to display a multi-space parking receipt.

V. REPORTING REQUIREMENTS: Zipcar shall furnish to the City monthly reports that detail the car sharing service utilization in a form acceptable to the City.

VI. PENALTIES AND FINES: Zipcar shall be financially responsible for any and all penalties and fines issues due to enforcement actions other than those described in paragraph IV above.

VII. CUSTOMER SERVICE: Zipcar shall provide a customer service telephone accessible service, available twenty-four (24) hours per day, seven (7) days per week, at no cost to the City. Customer Service Representatives shall be competent and knowledgeable to answer questions and provide information to customers.

VIII. SIGNAGE: Zipcar shall, at its sole cost and expense, have the right to install one 12' X 18' sign at each designated space to advertise the car sharing service provided. Upon expiration or termination of this Agreement, Zipcar shall, at its sole cost and expense, promptly remove all such signage.

GENERAL PROVISIONS

IX. INSURANCE:

Zipcar shall maintain, at its own cost and expense, the following types and amounts of insurance with insurers with rating of "A-" "VI" or better according to the A.M. Best rating guide as a minimum standard. The insurers providing coverage must be approved by the State of Florida and hold all of the required licenses in good standing to conduct business within the State of Florida. In addition, they must be acceptable to the City of Coral Gables Risk Management Division and/or the City Attorney's Office.

TYPE OF COVERAGE & LIMIT OF LIABILITY REQUIREMENT

Workers' Compensation and Employers Liability Insurance covering all employees, subcontractors, and/or volunteers of the Lessee. The minimum limits of liability shall be in accordance with applicable state and/or federal laws that may apply to Workers' Compensation insurance, with the following limits:

- Workers' Compensation - Coverage A
- Statutory Limits (State of Florida or Federal Act)
- Employers' Liability - Coverage B
- \$1,000,000 Limit - Each Accident

\$1,000,000 Limit - Disease each Employee
\$1,000,000 Limit - Disease Policy Limit

Commercial General Liability Insurance written on an occurrence basis including, but not limited to; Coverage for contractual liability, products and completed operations, personal & advertising injury, bodily injury and property damage liabilities with limits of liability no less than:

Each Occurrence Limit - \$1,000,000
Fire Damage Limit (Damage to rented premises) - \$100,000
Personal & Advertising Injury Limit - \$1,000,000
General Aggregate Limit - \$2,000,000

Business Automobile Liability Insurance covering all owned, non-owned and hired vehicles used in connection with the performance of work under this Contract, with a combined single limit of liability for bodily injury and property damage of not less than:

Combined Single Limit (Each Accident) - \$1,000,000 for the following vehicles:

Any Auto
Hired Autos
Non-Owned Autos

REQUIRED ENDORSEMENTS

The following endorsements with City approved language

Additional insured status provided on a primary & non-contributory basis for general liability and auto liability.

Waiver of Subrogation for general liability, auto liability and workers compensation.

Notices of Cancellation/Non-renewal/Material Changes must be sent directly to the City of Coral Gables by the Insurance Company. The City only requires the same statutory notice that an insurance company must provide to the insured, however this Notice may not be less than Thirty (30) Days, except a Ten (10) Day Notice of cancellation is acceptable for non-payment of premium.

Notices of Cancellation, Non-renewal or Material Change must be provided to the following address:

CITY OF CORAL GABLES
INSURANCE COMPLIANCE
P.O. BOX 12010-CE
HEMET, CA 92546-8010

HOW TO EVIDENCE COVERAGE TO THE CITY

The following documents must be provided to the City;

A Certificate of Insurance containing the following information:

Issued to entity contracting with the City

Evidencing the appropriate Coverage

Evidencing the required Limits of Liability required

Evidencing that coverage is currently in force

Language provided in the Special Provision Section of the Certificate of Insurance affirming that all endorsements required by the City have been endorsed to all of the policies.

A copy of each endorsement that is required by the City

All Certificates of Insurance must be signed by a person authorized by that insurer to bind or amend coverage on its behalf

The City reserves the right to require a complete copy of any insurance policies required by the City. Should the City invoke this right, the policy must be provided directly to the City by the insurance agent or insurance company.

The city reserves the right to require additional insurance requirements at any time during the course of the agreement.

All documents evidencing insurance to City of Coral Gables – Insurance Compliance should be sent via email to cityofcoralgables@ebix.com and to Risk Manager David Ruiz at druiz@coralgables.com. Should you require assistance, contact the dedicated Call Service Lines for City of Coral Gables:

Call Service Lines - Insurance Compliance

Phone: (951) 652-2883.

Fax: (770) 325-0417

Email: cityofcoralgables@ebix.com

When the Lessee submits evidence of insurance to the City of Coral Gables, the Certificate Holder section of the Certificate of Insurance should read as follows:

City of Coral Gables
Insurance Compliance
PO Box 12010 –CE
Hemet, CA 92546-8010

X. INDEMNITY; HOLD HARMLESS: To the fullest extent permitted by laws and regulations, ZIPCAR shall defend, indemnify, and hold harmless the City, its commissioners, attorneys, administrators, consultants, agents, and employees from and against all claims, damages, losses, and expenses direct, indirect, or consequential (including but not

limited to fees and charges of attorneys and other professionals and court and arbitration costs) arising out of or resulting from this Agreement and caused in whole or in part by either (i) any willful, intentional, reckless, or negligent act or omission of ZIPCAR, any subconsultant, or any person or organization directly or indirectly employed by any of them to perform, regardless of whether or not it is caused in part by a party indemnified hereunder and regardless of the negligence of any such indemnified party, or (ii) any willful, intentional, reckless, or negligent act or omission of any individual or entity not a party to this Agreement, or (iii) any negligent act or omission of the City or the City's officers, agents, or employees. The parties expressly agree that this provision shall be construed broadly, and ZIPCAR's obligations to pay for the City's legal defense hereunder shall arise and be fully enforceable when ZIPCAR (or any organization directly or indirectly employed by ZIPCAR) is alleged to have acted willfully, intentionally, recklessly, or negligently in the performance of this Agreement. Any failure of ZIPCAR to comply with the terms of this provision shall be deemed a material breach of this Agreement.

In any and all claims against the City or any of its consultants, agents, or employees by any employee of ZIPCAR, any subconsultant, any person or organization directly or indirectly employed by any of them to perform, the indemnification obligation under the above paragraph shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for ZIPCAR or any such subconsultant or other person or organization under workers' or workman's compensation acts, disability benefit acts, or other employee benefit acts. Moreover, nothing in this Indemnification and Hold Harmless provision shall be considered to increase or otherwise waive any limits of liability, or to waive any immunity, established by Florida Statutes, case law, or any other source of law.

XI. RELATIONSHIP OF PARTIES: Nothing herein contained to the contrary shall be deemed or construed by the parties hereto or by any third party to create the relationship of principal and agent or of partnership or of joint venture or of any association whatsoever between ZIPCAR and the City, it being expressly understood and agreed that none of the provisions contained in this Agreement nor any act or acts of the parties hereto shall be deemed to create any relations between ZIPCAR and the City other than the relationship of landlord and tenant. Notwithstanding anything in this Agreement, ZIPCAR acknowledges that this Agreement does not grant ZIPCAR any rights or create any exceptions to its obligation to comply with and meet the requirements of all the City's ordinances, resolutions and codes, and that this Agreement shall have no effect upon the jurisdiction and governing rights of the City over the Property and ZIPCAR shall be required to fulfill and comply with all applicable laws, rules and regulations, ordinances and resolutions of the City as though no such Agreement existed, including, without limitation, all requirements of the City's Building and Zoning Department or other pertinent City agencies.

XII. ASSIGNMENT: Without the prior written consent of the City, ZIPCAR shall not, directly or indirectly, assign, transfer, mortgage, pledge or otherwise encumber or dispose of this Agreement or assign the parking spaces or any part thereof.

XIII. SOVERIEGN IMMUNITY: ZIPCAR acknowledges that the Florida Doctrine of Sovereign Immunity bars all claims by ZIPCAR against the City other than claims arising out of this Agreement. Specifically, ZIPCAR acknowledges that it cannot and will not assert any claims against the City, unless the claim is based upon a breach by the City of this Agreement.

ZIPCAR acknowledges that it has no right and will not make a claim based upon any of the following:

a. Claims based upon an alleged breach by the City of implied warranties or representations not specifically set forth in this Agreement, as the Parties stipulate that there are no such implied warranties or representations of the City. All obligations of the City are only as set forth in this Agreement.

b. Claims based upon negligence or any tort arising out of this Agreement.

c. Claims based upon alleged acts or inaction by any City employee or agent of the City.

d. Claims based upon an alleged waiver of any of the terms of this Agreement unless such waiver is in writing and signed by an authorized representative for the City and the Professional.

XIV. NOTICE: Any notice to be given as provided for in this Agreement shall be in writing and shall be sent by United States certified mail, postage prepaid, return receipt requested, addressed to the respective party at the addresses set forth in the first page of this Agreement, or hand delivered or sent by a nationally recognized overnight courier. Either party, from time to time, by such notice, may specify another address to which subsequent notice shall be sent. Any notice given by mail shall be deemed given on delivery or refusal.

XV. TRIAL BY JURY: It is mutually agreed by and between the City and ZIPCAR that the respective parties hereto shall and they hereby do waive trial by jury in any action, proceeding or counterclaim brought by either of the parties hereto against the other on any matters arising out of or in any way connected with this Agreement, the relationship of the parties, and the use or occupancy of the parking spaces.

XVI. SUCCESSORS AND ASSIGNS: All terms and provisions of this Agreement to be observed and performed by the parties shall be applicable to and binding upon their respective heirs, personal representatives, successors and assigns, subject, however, to the restrictions as to assignment as provided herein.

XVII. ATTORNEYS' FEES: If either party defaults in the performance of any of the terms or provisions of this Agreement and by reason thereof the other party employs the services of an attorney to enforce performance of the covenants, or to perform any service based upon defaults, or in the event a party successfully defends an action against them for breach under this Agreement, then in any of said events the prevailing party shall be entitled to receive from the other party reasonable attorneys fees and expenses and costs incurred by the prevailing party pertaining thereto (including costs and fees relating to any appeal) and in enforcement of any remedy.

XVIII. ENTIRE AGREEMENT: This Agreement contains the entire agreement between the parties hereto and all previous negotiations leading thereto, and it may be modified only by an agreement in writing signed and sealed by the City and ZIPCAR. ZIPCAR

acknowledges and agrees that it has not relied upon any statement, representation, prior written or prior or contemporaneous oral promises, agreements or warranties except such as are expressed herein.

XIX. PUBLIC RECORDS: Records subject to the provisions of Public Records Law, Florida Statutes Chapter 119, shall be kept and maintained in accordance with such Statute. Contractor acknowledges that records and books, not subject to exemption under Chapter 119, may be disclosed and/or produced to third parties by the City in accordance with requests submitted under Chapter 119 or court orders without penalty or reprisal to the City for such disclosure and/or production. Contractor also agrees to assert, in good faith, any relevant exemptions provided for under Chapter 119 for records in its possession on behalf of the City. Furthermore, Contractor agrees to comply with the provisions outlined in Section 119.0701 of the Florida Statutes, the requirements of which are incorporated by reference herein.

IN WITNESS WHEREOF, the parties hereto have signed, sealed and delivered this Agreement at Miami-Dade County, Florida, as of the day and year first above written:

FOR THE CITY OF CORAL GABLES:

By: _____
Cathy Swanson-Rivenbark
City Manager

ATTEST:

By: _____
Walter Foeman
City Clerk

Approved as to form and legal sufficiency:

By: _____
Craig E. Leen
City Attorney

Reviewed by Department Director:

Kevin J. Kinney
Parking Director

FOR ZIPCAR, INC.:

EXECUTION WITNESSED BY:

By: _____

By: _____

Name: _____

Name: _____