

RESOLUTION NO. 2018-294

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF COCONUT CREEK, FLORIDA, AUTHORIZING THE CITY MANAGER, OR DESIGNEE, TO EXECUTE THE FIRST AMENDMENT TO THE MEMORANDUM OF UNDERSTANDING BETWEEN THE FLORIDA DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES AND THE CITY OF COCONUT CREEK TO ALLOW THE COCONUT CREEK POLICE DEPARTMENT ACCESS TO THE DRIVER AND VEHICLE INFORMATION DATABASE (DAVID); PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on May 4, 2016, the City entered into a Memorandum of Understanding (MOU) with the Florida Department of Highway Safety and Motor Vehicles; and

WHEREAS, the MOU was executed for the purpose of establishing the conditions and limitations under which the providing agency agrees to provide electronic access to information within the Driver And Vehicle Information Database (DAVID) to the requesting party; and

WHEREAS, as required in the MOU, access to and use of DAVID information shall be in accordance with Chapter 119, Florida Statutes, and the Driver's Privacy Protection Act (DPPA), and may only be disclosed to persons to whom disclosure is authorized under Florida law and federal law; and

WHEREAS, in order to ensure that this MOU complies with the requirements of Federal law, the parties wish to add additional language addressing access to and disclosure of data that may include the deceased date of an individual; and

WHEREAS, changes to the MOU are required to be made in writing, in accordance with section VIII. Amendments; and

WHEREAS, this amendment is required to add the additional compliance requirements to the MOU.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF COCONUT CREEK, FLORIDA:

Section 1: That the foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this resolution.

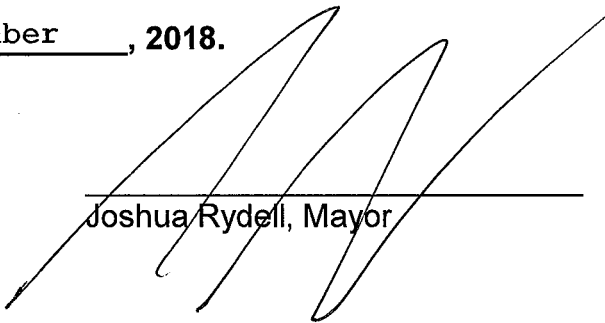
Section 2: That the City Commission has reviewed and hereby approves the attached Amendment No. 1 to the MOU between the Florida Department of Highway Safety and Motor Vehicles and the City of Coconut Creek.

Section 3: That the City Manager, or designee, is hereby authorized to execute the attached Amendment No. 1 to the MOU between the Florida Department of Highway Safety and Motor Vehicles and the City of Coconut Creek.

Section 4: That if any clause, section, other part, or application of this resolution is held by any court of competent jurisdiction to be unconstitutional or invalid, in part or in application, it shall not affect the validity of the remaining portion or applications of this resolution.

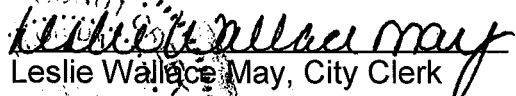
Section 5: That this resolution shall become effective immediately upon its adoption.

Adopted this 13th day of December, 2018.



Joshua Rydell, Mayor

Attest:



Leslie Wallace May, City Clerk



Rydell	<u>Aye</u>
Welch	<u>Aye</u>
Tooley	<u>Aye</u>
Sarbone	<u>Aye</u>
Belvedere	<u>Aye</u>

**AMENDMENT NO. 1
TO THE
MEMORANDUM OF UNDERSTANDING
BETWEEN
THE FLORIDA DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES
AND
COCONUT CREEK POLICE DEPARTMENT**

THIS AMENDMENT NO. 1, is made to the MEMORANDUM OF UNDERSTANDING (MOU) between the FLORIDA DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES, hereinafter referred to as "Providing Agency" or "Department," and COCONUT CREEK POLICE DEPARTMENT, hereinafter referred to as "Requesting Party," collectively referred to as "the Parties," executed on or about 5/20/2016.

WHEREAS, the MOU was executed for the purpose of establishing the conditions and limitations under which the Providing Agency agrees to provide electronic access to DAVID information to the Requesting Party; and

WHEREAS, as required in the MOU, access to and use of DAVID information shall be in accordance with Chapter 119, Florida Statutes, and the Driver's Privacy Protection Act (DPPA), and may only be disclosed to persons to whom disclosure is authorized under Florida law and federal law; and

WHEREAS, in order to ensure that this MOU complies with the requirements of Federal law, the Parties wish to add additional language addressing access to and disclosure of data that may include the deceased date of an individual; and

WHEREAS, changes to the MOU are required to be made in writing, in accordance with section VIII. Amendments; and

WHEREAS, this Amendment is required to add the additional compliance requirements to the MOU.

NOW THEREFORE, in consideration of the mutual benefits to be derived here from, the Parties hereto do hereby amend the MOU as follows:

I. Added language is shown herein as underlined. Existing language that was already underlined is shown herein with a double-underline.

II. The third paragraph of section III. Legal Authority, is hereby amended as follows:

Under this MOU, the Requesting Party will be provided, via remote electronic means, information pertaining to driver licenses and vehicles, including personal information authorized to be released pursuant to Section 119.0712(2), Florida Statutes and DPPA. By executing this MOU, Requesting Party agrees to maintain the confidential and exempt status of any, and all information provided by the Providing Agency pursuant to this agreement and to ensure that any person or entity accessing or utilizing said information shall do so in compliance with Section 119.0712(2), Florida Statutes and DPPA. In

addition, the Requesting Party agrees that insurance policy information shall be utilized pursuant to Section 324.242(2), Florida Statutes. Furthermore, the deceased date of an individual shall only be provided to a Requesting Party that meets the qualifications of 15 CFR §1110.102. Disclosure of the deceased date of an individual, which is not in compliance with 15 CFR §1110.102, is punishable under 15 CFR §1110.200. Additionally, because the Social Security Administration does not guarantee the accuracy of the Death Master File, the Requesting Party is reminded that adverse action should not be taken against any individual without further investigation to verify the death information listed (A notice from the Social Security Administration addressing the foregoing is attached hereto and incorporated herein by reference).

III. Section IV. Statement of Work, subsection B., is hereby amended by adding item 14.

14. Access and utilize the deceased date of an individual, or other information from the NTIS Limited Access Death Master File, as defined in 15 CFR §1110.2, in conformity with the following requirements:

(a) Pursuant to 15 CFR §1110.102, the Requesting Party certifies that its access to DMF information is appropriate because the Requesting Party: (i) has a legitimate fraud prevention interest, or a legitimate business purpose pursuant to a law, governmental rule, regulation, or fiduciary duty; (ii) has systems, facilities, and procedures in place to safeguard such information, and experience in maintaining the confidentiality, security, and appropriate use of such information, pursuant to requirements reasonably similar to the requirements of section 6103(p)(4) of the Internal Revenue Code of 1986; and (iii) agrees to satisfy such similar requirements.

(b) Pursuant to 15 CFR §1110.102, the Requesting Party certifies that it will not: (i) disclose DMF information to any person other than a person who meets the requirements of subsection IV. B. 14 (a), above; (ii) disclose DMF information to any person who uses the information for any purpose other than a legitimate fraud prevention interest or a legitimate business purpose pursuant to a law, governmental rule, regulation, or fiduciary duty; (iii) disclose DMF information to any person who further discloses the information to any person other than a person who meets the requirements of subsection IV. B. 14 (a), above; or (iv) use DMF information for any purpose other than a legitimate fraud prevention interest or a legitimate business purpose pursuant to a law, governmental rule, regulation or fiduciary duty.

IV. The second paragraph of section V. Safeguarding Information, is hereby amended as follows:

Any person who willfully and knowingly violates any of the provisions of this section is guilty of a misdemeanor of the first degree punishable as provided in Sections 119.10 and 775.083, Florida Statutes. In addition, any person who willfully and knowingly discloses any information in violation of DPPA may be subject to criminal sanctions and civil liability. Furthermore, failure to comply with 15.CFR §1110.102 pertaining to the deceased date of an individual may result in penalties of \$1,000 for each disclosure or use, up to a maximum of \$250,000 in penalties per calendar year, pursuant to 15 CFR §1110.200.

V. Item D., under that part of section V. Safeguarding Information, that begins with "The Parties mutually agree to the following:", is hereby amended as follows:

D. The Requesting Party shall comply with Rule 74-2, Florida Administrative Code, and with Providing Agency's security policies, and employ adequate security measures to protect Providing Agency's information, applications, data, resources, and services. The applicable Providing Agency security policies shall be made available to Requesting Party. Additionally, with respect to the deceased date of an individual, the Requesting Party shall have systems, facilities, and procedures in place to safeguard such information, and experience in maintaining the confidentiality, security, and appropriate use of such information, pursuant to requirements reasonably similar to the requirements of section 6103(p)(4) of the Internal Revenue Code of 1986 and agrees to satisfy such similar requirements.

VI. Section XIII. Certification Information, is hereby added to the MOU as follows:

Pursuant to IV.B.14(a) above, the Requesting Party certifies that access to DMF information is appropriate based on the following specific purpose (please describe the legitimate purpose):

Law Enforcement Purposes

Please indicate whether the Requesting Party desires to re-disclose the deceased date of any individual to any other person or entity. Yes ___ No

If the Requesting Party desires to re-disclose the deceased date of any individual to any other person or entity, the Requesting Party agrees that it will not re-disclose the data received from the Providing Agency, but rather, will contact NTIS at <https://classic.ntis.gov/products/ssa-dmf/#> to become a Certified Person, as defined by 15 CFR §1110.2. A Requesting Party who is a Certified Person may only disclose the deceased date of an individual pursuant to the Requesting Party's obligations under 15 CFR §1110.102."

VII. All other terms and conditions of the original MOU not herein revised shall be and remain the same in full force and effect.

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IN WITNESS WHEREOF, the undersigned have caused this AMENDMENT to be executed by their authorized officials as of the last date indicated below.

For: City of Coconut Creek, Florida

By: *Mary C. Blasi*
Mary C. Blasi, City Manager

Approved as to Legal Sufficiency
and Form:

By: *Terrill C. Pyburn*
Terrill C. Pyburn, City Attorney

ATTEST:



By: *Leslie Wallace May*
Leslie Wallace May, City Clerk

For: Florida Department of Highway Safety and Motor Vehicles:

DocuSigned by:
Trey Collins
602704FDFB08480...

Trey Collins

Printed/Typed Name

Bureau Chief, Purchasing and Contracts

Title

2/3/2019

Date