

## MEMORANDUM OF UNDERSTANDING

Between

**Name of Company Inc.**

and

**Montgomery County, Maryland**

This Memorandum of Understanding (“MOU”) is made and entered into as of the 29th of September, 2017, by and between Montgomery County, Maryland and Name of Company Inc. (“Name of Company”). This MOU sets forth the terms and performance measures between Name of Company and the County regarding Name of Company’s provision and operation of smart, station-less bicycle services within Silver Spring, Maryland using Name of Companys (the “Demonstration Project”).

### RECITALS

**WHEREAS**, the purpose of this MOU is to permit Name of Company to launch the Demonstration Project and ensure that Name of Company bicycles are parked appropriately without impeding pedestrian access, and/or obstructing access to fire hydrants and valves, street furniture, bus stops, driveways, crosswalks, intersections, traffic operations, outside dining or retail, building access, or any other public use of right-of-way in Montgomery County; and

**WHEREAS**, the Montgomery County Government, along with other Government agencies such as the Maryland State Highway Administration, owns, controls, and maintains the public space on which Name of Company will park its Name of Company bicycles; and

**WHEREAS**, the County’s Department of Transportation (“MCDOT”) will be the primary County department that will enforce the conditions set forth in this MOU; and

**WHEREAS**, Name of Company is an app-based biking platform that connects users to specially designed bicycles equipped with GPS and a proprietary smart-lock technology. Name of Company enables users of its app to locate nearby Name of Company bicycles and unlock and rent them using their smartphones. After biking to their destination, users can park and lock Name of Company bicycles at any public bike parking location, making the Name of Company bicycle available to other Name of Company users; and

**WHEREAS**, Name of Company desires to operate the Demonstration Project in Silver Spring; and

**WHEREAS**, the County desires to facilitate the Demonstration Project to assess the viability of dockless bikeshare operations within the County and to understand the parameters that will allow dockless bikeshare to operate effectively and to avoid any public nuisance in the County.

**NOW, THEREFORE**, based upon the above recitals, Name of Company hereby agrees to the performance measures of this MOU as follows:

#### **Article I. Responsibilities of the County**

The County, by and through MCDOT, will, with good faith and in an effort to achieve the County’s policy goals, cooperate and communicate with Name of Company and the public to work towards a successful, safe and sustainable regulatory environment for smart station-less bicycle sharing.

- A. The County will notify enforcement agencies not to ticket or impound bicycles parked according to performance measures of this MOU and local law;
- B. The County will establish and update, as needed, parking requirements for dockless bikeshare bicycles including identification of suggested parking areas and areas that can serve as preferred bicycle parking locations in downtown Silver Spring;
- C. The County may designate specific parking areas through signage, striping or other means for dockless bikeshare bicycle parking.
- D. The County will provide to Name of Company a point of contact (POC) for the Demonstration Project.

**Article II. Responsibilities of Name of Company**

A. Performance Requirements: Name of Company will, with good faith, cooperate and communicate with the County, through its POC, and the public to work towards a successful, safe and sustainable demonstration of dockless bicycle sharing in Silver Spring, conforming to local law and to the performance measures outlined below:

1. Management, Coordination, and Communication:

- a. Name of Company shall provide the entire Demonstration Project at no cost to Montgomery County, Maryland. All obligations of the County under this MOU shall be subject to and contingent upon the appropriation of funds.
- b. Upon signature of this MOU, Name of Company will provide to the County a point of contact (POC) with control of the services provided in accordance with this MOU for the planning and duration of the demonstration period.
- c. The Name of Company representatives will meet with the County POC within three days of any request of the County to review operations. In addition to ad-hoc meetings, Name of Company will meet with the County POC at least one week before launch, the day before launch, and monthly thereafter throughout the duration of the Demonstration Project.
- d. In the case of a critical issue or emergency situation, \_\_\_\_\_ will be available within the Response Time to respond to emergency needs and to coordinate with the County. The County has the right to exercise “self-help” if they determine that an emergency poses an imminent risk to public health and safety or property damage. For the purposes of this Agreement, the “Response Time” shall mean, based on the time of report:

When reported between 6 AM and 8 AM – 2 hours from the time of report  
 When reported between 8 AM and 9 PM – 1 hour from the time of report  
 When reported between 9 PM and 11 PM – 2 hours from the time of report  
 When reported between 11 PM and 6 AM – Prior to 8 AM

- e. The Name of Company POC will respond within five business days regarding issues or questions raised by the County in meetings, through telephone inquiries, or other correspondence.

- f. Name of Company will be solely responsible for providing information to its customers on proper Name of Company parking prior to the launch of the Demonstration Project, and throughout its duration. Name of Company will provide to the County the details of its communications materials and schedule of this education effort, two weeks in advance of launch.
2. Fleet Condition and Inventory
- a. Name of Company shall ensure each Name of Company bicycle deployed and used is fully operable, free of defects, conforms to relevant safety standards, and is well-maintained and clean.
  - b. Name of Company shall affix to each Name of Company bicycle deployed its clearly visible logo and instructions on how to contact the company to request pickup of an improperly parked Name of Company bicycle and/or a Name of Company bicycle in need of maintenance or cleaning. Instructions shall include a URL and phone number for reporting problems without requiring an app or a smartphone.
3. Bicycle Parking and Removal
- a. Name of Company will ensure that Name of Company bicycles are parked in accordance with the terms and performance measures in this MOU outlined below and local law.
  - b. Name of Company will work to ensure that Name of Company bicycles are parked only at public bicycle racks or on public sidewalks in a manner that does not impede pedestrian access, does not obstruct access to fire hydrants and valves, does not affect access to street furniture, does not interfere with traffic operations, bus stop operation, driveway access, crosswalks, access to private property, or outside dining or retail, and does not damage landscaping, street trees or other aesthetic features.
  - c. Name of Company will ensure that Name of Company bicycles are not restricting access to Capital Bikeshare stations for Capital Bikeshare operations and maintenance and for Capital Bikeshare users.
  - d. If the County designates parking areas for dockless bikeshare bicycles including Name of Company's bicycles or those of other providers, Name of Company's bicycles must be parked within the designated parking area and may not be parked in any location within the public right-of-way that is less than 300 feet from that designated parking area.
  - e. Within one-hour of reporting by the County and others, Name of Company will remove Name of Company bicycles parked in violation of the parking requirements outlined above, or otherwise in conflict with applicable laws and regulations, or in violation with other dockless bicycle parking standards to be developed and periodically updated by the County.
  - f. Name of Company will remove each parked Name of Company bicycles in need of maintenance and/or cleaning in violation of the terms and performance measures in this MOU and local law within one hour of reporting to Name of Company.
  - g. Failure to adhere to these parking performance measures shall result in the County removing the bicycle and storing it in a facility available to the County through ownership or contract. Name of Company will be required to pick up bicycles from such

a facility within one business day and will reimburse the County for all costs associated with removal and storage of the bicycle, in addition to any applicable fines or fees, or other penalties as appropriate under the law. Subject to applicable laws and rules, County will consider these Name of Company bicycles abandoned and dispose of it as the County deems fit in the event of that Name of Company failed to remove relevant bicycles in due time upon reporting.

- h. In the event of a declared snow emergency, Name of Company shall collect all owned or controlled bicycles located in the public right-of-way and relocate them to a storage facility, or otherwise secure the bicycles in a location that does not impede public and private snow and ice clearing operations for the duration of the emergency.
- i. Upon request of the County due to emergency, construction, parade, public gathering, or other situation affecting the normal operation of the right-of-way, Name of Company shall collect and secure all of, or a portion of, Name of Company's owned or controlled bicycles to a location outside of the public right-of-way or to a location that does not otherwise impede the County's access and response to the situation for the duration of the situation.

#### 4. System Operations and Reporting

- a. Name of Company shall regularly monitor the deployment and dispersion of its bicycles and maintain appropriate service levels throughout Silver Spring so as to provide sufficient access to its bicycles within the downtown area, and around bus, metro and commuter rail stations and major activity centers.
- b. Name of Company shall promptly respond directly to Montgomery County residents and all users reporting problems, issues and/or requesting information regarding Name of Company services including but not limited to the parking of Name of Company bicycles.
- c. Name of Company will provide to the County on a monthly basis a cumulative monthly report of bicycle utilization, customer enrollment, travel patterns, requests to remove and/or move improperly parked or maintained bicycles, complaints and comments, and injuries and accidents to Name of Company users. If requested, the report shall be presented at a meeting with the County and shall include as much data and can reasonably be provided to the County, including but not limited to the nature of the incident, response time and resolution.

#### 5. Bike Movement Reporting

Without prejudice to Name of Company's rights and interest to its commercially privileged and sensitive information, Name of Company will provide the County on a monthly basis a monthly report containing anonymized details on bicycle movement for the County's use. As much data as can be reasonably provided will be made available to the County. Reporting should include the number of rides in the previous month, summary of origins and destinations, routes traveled, safety reports on crashes, and any instances of illegal parking.

#### 6. Penalties and Fines.

- a. Name of Company shall be financially responsible for any/all penalties, fines, and other costs to the County as a result of illegally parked bicycles, including but not limited to parking tickets or other enforcement actions against Name of Company.

7. Advertising.

Name of Company shall not advertise or publish Montgomery County government's participation in or endorsement of the Name of Company dockless bikeshare or promotional material without County written consent.

Name of Company shall not utilize its bicycles for the sale or display of third party advertising.

8. Remedies.

- a. Name of Company must carry out and perform its obligations pursuant to this MOU.
- b. If Name of Company violates its obligations under this MOU and such violation is not corrected within one week's time following written notice by the County, the County may then immediately terminate the Demonstration Period and this MOU.

9. No Right, Title or Interest.

Name of Company expressly acknowledges that this MOU does not constitute a conveyance of real property, in whole or in part.

**Article III. Duration**

This MOU shall become effective upon signature by the County and will remain in effect for an initial term of six (6) months and may be renewed by Name of Company for an additional six (6) month term upon thirty (30) days' notice to, and the written consent of, the County. This MOU may be modified only by mutual consent of authorized representatives from either party, in writing.

**Article IV. Service Area**

Name of Company will be permitted to operate within a portion of the area known generally as Silver Spring. The service boundaries are depicted in Exhibit 1. Name of Company will be required to collect bicycles that travel beyond this service area for redeployment within the service area within 24 hours' notice to Name of Company.

**Article V. Insurance and Indemnification**

A. Insurance

Name of Company shall maintain at all times a comprehensive general liability insurance policy concerning acts or omissions of Name of Company and its employees, agents and contractors with respect to the Demonstration Project and its obligations under this MOU, with limits of not less than \$2,000,000 per occurrence and with excess liability limits of at least \$3,000,000 per occurrence and in the aggregate, for bodily injury, death and property damage, with a commercially reasonable deductible amount, with coverage including independent manufacturer's and independent contractor's liability, damage from explosion, collapse and underground hazards, completed operations coverage. Montgomery County, its elected and appointed officials, officers, consultants, agents and employees shall be included as an additional insured on the policy for liability arising out of Name of Company's

activities. Written notice of cancellation, if applicable, must be delivered to the County in advance. Name of Company shall provide the County with a certificate of insurance at the time of execution of this Agreement, issued to:

Montgomery County, Maryland, Department of Transportation / Director's Office  
Attention: Al Roshdieh, 101 Monroe Street, Rockville, Maryland 20850

**B. Indemnification.**

Name of Company, its successors and assigns, hereby indemnifies, defends and holds the County harmless from and against any and all claims, loss or damage, including reasonable attorney's fees, arising out of any claims for damage or injury to persons or property resulting from the Name of Company's activities defined in this Agreement, including (a) any act or omission by Name of Company and its employees, agents and contractors in connection with Name of Company's activities associated with the Demonstration Project, and (b) any act or omission of Name of Company and its employees, agents and contractors associated with the Demonstration Project , excepting claims arising from the negligent act or intentional misconduct of the County or its employees. Name of Company's indemnification obligations shall survive termination of this MOU.

**Article VI. Termination**

Either party may terminate this agreement with 10-days' notice to the other party. Upon termination, Name of Company shall remove all of the bicycles under its ownership or control within five (5) business days of the date of termination and shall cease all operations within the service area once the bicycles have been removed. The County will consider any Name of Company bicycles not removed as abandoned property and will dispose of them as it deems fit.

IN WITNESS WHEREOF, the Parties hereto have caused this MEMORANDUM OF UNDERSTANDING to be executed as of the date first above written by their duly authorized representatives.

Montgomery County Maryland

Al Roshdieh

Title: MCDOT Director

Signature: \_\_\_\_\_

Name of Company Inc.

Title: Director

Signature: \_\_\_\_\_

