

**COOPERATIVE AGREEMENT FOR BICYCLE SHARING PROGRAM BETWEEN
KANSAS CITY, MISSOURI AND BIKE SHARE KC**

THIS AGREEMENT is made and entered into this ____ day of _____, 20____, by and between the City of Kansas City, Missouri, a constitutionally chartered Municipal corporation (hereinafter referred to as "City"), and Bike Share KC, a Missouri nonprofit corporation (hereinafter referred to as "Bike Share").

WHEREAS, Bike Share is a Missouri nonprofit corporation that wishes to develop, own and operate a public bicycle-sharing rental program in the greater Kansas City metro area; and,

WHEREAS, the program will provide a low-cost transportation option for short trips and include educational programs to offer users bicycle safety and skills; and,

WHEREAS, the bike share program will offer residents and visitors opportunities for transportation, recreation, and fitness and will increase the visibility of bicycling and raise awareness of safety, accessibility, public health, and transportation issues; and,

WHEREAS, Bike Share approached the City expressing a desire to enter into an agreement with the City to establish a privately owned and operated bicycle-sharing program in the City in which Bike Share will provide bicycles, bicycle-sharing stations, and daily operational expenses; and,

WHEREAS, for a bicycle-sharing program to be successful, program facilities will have to be placed at locations throughout the City that prioritize visibility, location desirability, and convenience, among other considerations; and,

WHEREAS, due to a lack of sufficient public or private open space at optimal locations, it will be necessary to place some of the facilities of a bicycle-sharing program within the City right-of-way, including on sidewalks; and,

WHEREAS, in order for the City's residents, workers and visitors to have a high-quality bicycle-sharing program with the features the City desires, the program must be supported in part by allowing limited advertising for sponsors on bicycle-sharing facility equipment, including the program bicycles;

NOW, THEREFORE, in consideration of the promises and mutual covenants of the parties hereto, the City and Bike Share hereby enter into this Agreement, subject to the following terms and conditions:

Section 1. Scope of Agreement. The purpose of this Agreement is to provide for the installation, management, operation, and maintenance of bicycle-sharing stations within the public right-of-way. Nothing herein shall be deemed as authorization for Bike Share to install Program components on privately owned property or right-of-way belonging to any governmental authority other than the City.

Section 2. Term. This Agreement, unless earlier terminated or amended as provided for herein, is effective as of January 1st, 2018 and shall expire on December 31st, 2023.

Section 3. Renewal. No earlier than July 1, 2023 and no later than December 31, 2023, and upon the mutual agreement of the Parties, this Agreement may be renewed for one five (5) year term from January 1, 2024 through December 31, 2028. The renewal shall be on the same terms and conditions of this Agreement, unless otherwise agreed to in writing by the Parties. Bike Share shall give notice in writing to the City of its desire to renew this Agreement by the mailing or personal delivery of a notice of renewal to the City.

Section 4. Definitions. The following terms have the meaning and/or usage ascribed herein, except where an alternative definition or usage is specifically provided:

1. Contractor means Bike Share and every person or entity retained by Bike Share to design, manufacture, install, construct, deconstruct, reconstruct, or maintain the Program components.

2. Maintenance includes every action, up to and including replacement of any structure or component, necessary to keep the Program equipment in good working order, whether such action is necessitated by normal wear and tear, accident, storms or other acts of God, or vandalism.

3. Program means the bicycle-sharing program operated by Bike Share in the City pursuant to this Agreement, including all facility locations in the City right-of-way, other City land, and private zoning lots.

4. Restoration Costs mean costs necessary to put land or property back into the same condition it was in before the land or property was disturbed by the Program.

Section 5. Bike Share's Obligations.

1. Program Operation. During the dates of operation set forth below, Bike Share agrees to operate a bicycle-sharing program in the City originally consisting of at least forty (40) kiosks, identified on Attachment 1 to this Agreement, and two hundred forty (240) bicycles. Bike Share KC will own the Program and all of its facilities, and be responsible for all installation, operations, including obtaining sponsorship and advertising necessary to support the Program, and maintenance related thereto. The City, at its sole option and subject to the appropriation of funds, may assist with funding of maintenance for Program kiosks and bicycles. The providing of any such funding at any time shall in no way constitute a continuing obligation to do so in the future. If the City notifies Bike Share that funding is available, Bike Share shall provide the City with an invoice on the 15th of each month for the maintenance services occurring in the previous calendar month for which it seeks reimbursement. Each invoice shall be on a form approved by the City. If said invoice(s) are approved, the City shall release maintenance funds to Bike Share no later than thirty (30) days following approval. Bike Share agrees to install all Program equipment according to manufacturer specification.

2. Dates of Operation. For each calendar year of this Agreement, Bike Share shall operate on a year-round basis and ensure that any Program equipment will not prevent the City or

any adjoining property owners from meeting the City's snow and ice removal requirements and policies.

3. Reporting Requirements.

a. Performance Report. Bike Share will provide a full calendar year report on the Program's performance and operations to the City each year by February 28th of the following year.

b. Records. Bike Share shall maintain all its books, documents and records relating to this Agreement during the Agreement period and for three (3) years after the date of its termination, and shall provide the City access to such at the City's written request. The books, documents and records shall be made available to the City within ten (10) days after the written request is made.

4. Fees, Revenues and Related Financial Matters. Unless otherwise provided herein, Bike Share is solely responsible for paying all necessary licensing, permitting, or registration fees that may be necessary to comply with the City's ordinances, or other law.

5. Electrical Connections.

a. Ability to Connect to City's Electrical Supply. Bike Share may, on a site-by-site basis, and in consultation with the Director of Public Works or, if the desired location is Park land, the Director of Parks and Recreation, find that connecting the bicycle-sharing kiosks to the existing traffic control boxes or other electrical source is the most cost-effective and efficient means of providing the electrical power needed to operate the Program. If this determination is made, Bike Share shall be entitled to connect to the City's electrical supply; however, under no circumstances will Bike Share be allowed to connect to the City's streetlight system.

b. Connection Costs. Bike Share is responsible for all costs to connect and disconnect the Program's electrical service to the City's electrical supply, including any restoration costs associated therewith.

6. City Employee Memberships. Bike Share will offer each City employee a one hundred percent discount on annual bike share memberships. The Annual Membership entitles users to unlimited bike checkouts during the membership period, subject to additional usage fees that must be paid by the City employee. As of this Agreement date, the Annual Members receive unlimited checkouts of sixty (60) minutes per use. Checkouts lasting longer than sixty minutes will incur usages fee at the rate of \$2.00 per half hour. Bike Share will provide a code that City employees can use to redeem the discount when purchasing an annual membership on the official Bike Share web site with the use of a valid credit card and City e-mail address.

7. Advertising Allotments. Bike Share will provide the City with the following advertising opportunities at no cost to the City:

a. The City's logo and the Parks and Recreation Department logo, as provided by the City, will be displayed on the official Bike Share web site in the same place and manner as other Program sponsors.

b. Bike Share will mention at least one City program or special event, as designated by the City, per month on a Bike Share social media outlet.

c. Bike Share will give the City advertising space on at least five percent of the bicycle basket panels and on at least three percent of the bicycle shroud panels.

Section 6. City's Responsibilities.

1. Program Operation. The City shall provide Bike Share with staff assistance, as needed, in locating Program facilities. However, in no event is the City to assume any active role or responsibility for the operations of the Program, which shall remain entirely with Bike Share, nor shall the City be financially responsible for the Program, unless the City agrees to fund maintenance service as provided in Section 5.1 of this agreement.

2. Waiver of Encroachment Permits. The City exempts Bike Share from the requirement to obtain an encroachment permit related to the location and installation of any Program equipment. This exemption does not apply to Park land. On Park land, encroachment permit fees will be waived, but not the requirement for obtaining such permit.

3. Permits and Approvals. The City waives all permit fees associated with the Program, including those for encroachment. Unless otherwise provided herein, Bike Share is responsible for obtaining all required approvals necessary to install and operate the Program's facilities in the right-of-way or on other City land. Failure to have approval will cause the bicycle-sharing facility privileges granted under this section to immediately expire. Such expiration shall apply to the location in question, or the entire Program, as the case may be.

4. Use of Right of Way. The City agrees to allow Bike Share, its representatives, employees, consultants and contractors, to use that portion of the public right-of-way reasonably necessary for the installation and maintenance of the Program equipment and facilities. The grant of this license shall not constitute a conveyance of any interest in the public right-of-way.

5. Costs Associate with Electrical Connections. For each Program kiosk that is connected to the City's electrical supply, the estimated charge to the City is approximately \$53.00 per year. Subject to the appropriation of funds, the City agrees to pay the actual costs of electrical service to any Program kiosk connected to the City's electrical supply, excluding the costs to connect or disconnect a kiosk from the electrical supply.

Sec. 7. Selection/Approval of Locations.

1. Program Expansion Within the City. If Bike Share desires to relocate existing Program facilities or place new facilities in the right-of way or on other City land, Bike Share must submit a written request to the City Manager (or his/her designee) or, if the desired location is Park land, the Director of Parks and Recreation. The request shall be approved or denied within 30 days. If there is a determination that modifications to the proposed locations need to be made for any reason or that the locations do not meet any applicable standard adopted by the City, Bike Share shall be notified of that determination and Bike Share shall, at its sole expense, submit revised locations for review. No installation shall commence unless and until approval of the locations has been obtained, nor shall Bike Share be permitted to proceed except in accordance with the plans as approved by the relevant director. Should Bike Share fail to obtain

the necessary approval or complete the installations in conformity with locations approved by the relevant director, the director may, in his sole discretion, allow the work to proceed or order that Bike Share cause the work to cease and restore at its expense the affected location to the same or substantially similar condition as existed prior to the unauthorized or nonconforming work. The relevant director may require that Bike Share secure the written consent, in a format deemed acceptable to director, of any person owning or lawfully occupying the property immediately abutting the planned location of any bicycle kiosk. Notwithstanding anything within this Agreement to the contrary, the relevant director shall have the sole and subjective right to disapprove of any proposed location or impose conditions on his approval of any proposed location if he determines in his sole and subjective discretion that such disapproval or conditioning is in the public interest. The terms of this Agreement shall apply to any new or relocated facilities.

2. Program Expansion Outside of City. If, during the course of this Agreement, Bike Share desires to expand facility locations to property located outside of the municipal boundaries of the City, it may do so upon written notification to the City Manager's Office. Any locations outside of the municipal boundaries of the City are not subject to the terms and provisions set forth in this Agreement, but will instead be regulated by the ordinances or regulations of the adjoining municipality. Bike Share agrees that it will comply with the ordinances or regulations of the adjoining municipality and that failure to comply with said ordinances or regulations, based upon the determination of the adjoining municipality, shall be considered a default under the terms of this Agreement.

3. Stationless Bike Share. Bike Share anticipates the addition of stationless or dockless bike share technology during the term of this contract. This technology includes bicycles that operate independently of kiosks or stations, and may be parked on their own in locations separate from bike share stations. Bike Share agrees to abide by any future regulations that the City adopts to regulate the operations of stationless bike share systems within the city limits.

Section 8. Signage.

1. General Limitations. Bike Share agrees that, as it relates to all signage on Program bicycle-sharing facilities, it will abide by applicable state, local and federal law relating to signs. The bicycle-sharing program facilities, equipment and bicycles are not a public forum for public debate or discourse. Bike Share is solely responsible for the selection of any sponsors and for ensuring that all Sponsor Signs, signs on City Right of Way, other City land, or private property, and signs on bicycles (collectively "Program Signs") comply with the guidelines set forth in this Section ("Guidelines"). An exception is Park land, in which sponsor signs are not allowed on kiosks without the Board of Parks and Recreation Commissioners approval. Bike Share shall forward to the City for approval any proposed Program Signs that might violate one or more of these Guidelines. Bike Share will promptly remove any sign determined by the City to be in violation of these Guidelines.

2. Signs on Kiosks and Bicycles. Bike Share agrees that, other than signs and logos related to Bike Share and the Program, signs on Program kiosks and bicycles may only be displayed on those panels identified on Attachment B, pursuant to the dimensions set forth therein.

3. Content Guidelines. Bike Share agrees that in addition to any restrictions set forth by city ordinance, the content of any Program sign, including those located on Program bicycles and at Program kiosks, will not include any message that is illegal, obscene, libelous or fraudulent.

4. Medium Guidelines. All signs on bicycle-sharing facilities shall be constructed of safe and sturdy materials and affixed in a safe and workmanlike manner, subject to the approval of the City. Any material that might interfere with the safe, timely, and convenient operation of the bicycle-sharing stations and bicycles, or the safety of users of the bicycle-sharing program or the general public, will not be allowed. This includes, but is not limited to, signs that include any flashing elements, sound makers, mirrors, attention-getting devices or any other special effects. The signs may not include any flyer or papers or other item designed to be removed from the sign.

5. Guideline Amendments. During the term of the Agreement, the City may find it necessary to amend the guidelines provided in this section. Bike Share may propose an amendment to these guidelines to the Director of Public Works or, for signage located on Park land, the Director of Parks and Recreation. If the City finds that an amendment to these guidelines is necessary, the City may unilaterally amend these guidelines upon written notice to Bike Share, however the City shall be obligated to discuss said amendments with Bike Share prior to providing this notice. Said amendments shall be effective thirty (30) days after said notice is provided to Bike Share.

6. Default. A violation of the signage Guidelines as set forth in this Section shall be cause for the City to terminate this Agreement if said violation is not corrected within fifteen (15) business days of notice to Bike Share. The determination that there has been a violation of these signage Guidelines shall be solely up to the City. Notice of a violation of these limitations will be sufficient if made verbally to a Bike Share representative.

7. No Waiver. By setting forth sign limitations in this Section and providing contractual remedies therefore, the City does not intend to waive its right to enforce any and all City ordinances in a forfeiture action or other appropriate venue and nothing in this Agreement shall relieve Bike Share from compliance with all applicable state, local and federal laws.

8. Changes to Sign Code and Policies. Bike Share agrees that it will abide by the City Ordinances as they may be amended from time-to-time during the life of this Agreement.

Section 9. Default and Termination.

1. Except where specifically provided for elsewhere in this Agreement, in the event Bike Share shall default in any of the covenants, agreements, commitments, or conditions herein contained, or if any of the conditions set forth below shall occur, and any such default shall continue unremedied for a period of fifteen (15) business days after written notice thereof to Bike Share, the City may, at its option and in addition to all other rights and remedies which it may have at law or in equity against Bike Share, including expressly the specific enforcement hereof, forthwith have the cumulative right to immediately terminate this contract and all rights of Bike Share under this Agreement. Notwithstanding the foregoing, Bike Share's obligation with regards to indemnification as provided in Section 15 and 16 of this Agreement shall survive the expiration or termination of this Agreement with regards to any claims arising during such time

as this Agreement was in effect. City shall have the absolute right to terminate this Agreement irrespective of whether Bike Share is meeting its maintenance obligations.

2. It shall be a default if any of the following conditions occur:

- (1) If Bike Share makes an assignment of its property for the benefit of creditors.
- (2) If Bike Share petitions a court to be adjudged bankrupt, or is adjudged bankrupt.
- (3) If a petition in bankruptcy shall be filed in any court against Bike Share for more than thirty (30) days.
- (4) If Bike Share is judicially determined to be insolvent.
- (5) If a receiver or other officer shall be appointed to take charge of the whole or any part of Bike Share property or to wind up or liquidate its affairs.
- (6) If Bike Share shall seek reorganization under any of the terms of the National Bankruptcy Act, as amended, or under any other insolvency law.
- (7) Bike Share shall admit in writing its inability to pay its debts as they become due.
- (8) If any final judgment shall be rendered against Bike Share and remain unsatisfied for a period of thirty (30) days from the date on which it becomes final.
- (9) If Bike Share shall abandon the operation of the Program and its facilities.

Section 10. Title to be Retained by Bike Share. Bike Share shall retain title to and ownership of all the Program facilities and equipment.

Section 11. Removal of Facilities.

1. Bike Share shall remove the bicycle-share facilities and equipment in the right-of-way that are permitted under this section upon ten (10) days written notice by the City or termination of this Agreement. Additionally, Bike Share or its heirs or assigns shall be entitled to no damages for removal of the bicycle-sharing facilities, and if Bike Share shall not remove the same upon due notice, it shall be removed by the City at Bike Share's expense.

2. After a bicycle-sharing facility is removed, either at the direction of the City or by the decision of Bike Share, Bike Share shall restore the right-of-way or other City land to its original condition. City may charge the Bike Share for its costs associated with restoring the right-of-way or other City program to its original condition if the Bike Share fails to do so.

Section 12. Maintenance.

1. Bike Share shall have the responsibility to maintain all Program bicycles, kiosks, and other equipment/facilities. City shall not have any obligation with regards to the maintenance of Program bicycles, kiosks, and other equipment/facilities. Bike Share shall be responsible for maintaining the Program bicycles, kiosks, and other equipment/facilities in good repair and in a manner that shall not interfere with the proper, safe and continuous use of the right-of-way by pedestrians and motorists.

2. Notwithstanding anything in the above provision, the parties agree that City shall have right to work within the right-of-way, whether by its own forces or contracted forces. City also may, but is not obligated to, perform maintenance on the improvements. In the event that City determines Bike Share has failed to perform maintenance in accordance with the standards set forth in this Agreement, City shall send notice to Bike Share whereupon Bike Share shall have fourteen (14) calendar days from the date of the notice to correct any deficiencies, except that in the event of an emergency posing a risk to public health, safety or welfare, City may act without providing the above-referenced notice. If Bike Share does not resolve the deficiency within the allotted time, or if City acted in an emergency situation, City shall charge the costs to Bike Share and Bike Share shall be obligated to reimburse City within thirty (30) calendar days. Bike Share's obligation to reimburse City exists independently by virtue of this Agreement and shall not be impaired by City's ability to assess certain maintenance costs to abutting property owner(s) as provided by Section 64-243 of the Code of Ordinances or any other provision of law.

Section 13. Dangerous Conditions. The Parties shall take all necessary precautions so as not to suffer or permit any unreasonably dangerous condition to pedestrians and/or motorists to be created, exist or continue. In the event City declares an unreasonably dangerous condition to exist, Bike Share shall take all steps reasonably necessary and without delay to abate or cause its Contractor to abate the condition.

Section 14. Notices. All notices required by this Agreement shall be in writing sent by regular U.S. mail, postage prepaid, or delivered by courier to the following:

CITY: City Manager
29th Floor, City Hall
414 E. 12th Street
Kansas City, MO 64106

CITY: Mark L. McHenry
Director of Parks and Recreation
4600 E. 63rd Street
Kansas City, MO 64130

Bike Share: Eric Rogers
Executive Director
4741 Central Street, Suite 161
Kansas City, MO 64112

All notices are effective on the date mailed or upon receipt if delivered by a courier. Either Party may provide the other party a change of address in writing which change shall be effective ten (10) days after delivery.

Section 15. General Indemnification.

1. Bike Share shall defend, indemnify, and hold harmless City and any of its agencies, officials, officers and employees from and against all claims, damages, liability, losses, costs and expenses, including reasonable attorneys' fees, arising out of or resulting from any acts or omissions in connection with the performance under this Agreement, caused in whole or in part by Bike Share, Bike Share's employees, agents, or contractors, or others for whom Bike Share is legally liable, regardless of whether or not caused in part by any act or omission of City, its agencies, officials, officers or employees.

2. Bike Share's contracts with every Contractor shall require such persons or entities to defend, indemnify, and hold harmless the City and any of its agencies, officials, officers and employees to the same extent that Bike Share is required by this section to defend, indemnify, and hold harmless City and any of its agencies, officials, officers and employees.

Section 16. Indemnification for Professional Negligence. If Bike Share hires any architect or engineer in connection with the installation of the Program equipment or facilities, then Bike Share's contracts with its architects or engineers shall cause such Contractors to indemnify and hold harmless City and any of its agencies, officials, officers, or employees from and against all claims, damages, liability, losses, costs, and expenses, including reasonable attorneys' fees, but only to the extent caused by the negligent acts, efforts, or omissions of such Contractors, their employees, agents or others for whom such Contractors are legally liable, in the performance of professional services. Bike Share's Contractors are not obligated under this section to indemnify City for the negligent acts of City and any of its agencies, officials, officers, or employees.

Section 17. Insurance. Bike Share shall procure and maintain, and shall require its Contractors to procure and maintain, in effect throughout the duration of this Agreement, insurance coverage not less than the types and amounts specified below. Bike Share shall ensure that City is named as an additional insured.

1. Commercial General Liability Insurance: with limits of \$1,000,000 per occurrence and \$1,000,000 aggregate, written on an "occurrence" basis. The policy shall be written or endorsed to include the following provisions:

- a. Severability of Interests Coverage applying to Additional Insureds
- b. Contractual Liability
- c. Per Project Aggregate Liability Limit or, where not available, the aggregate limit shall be \$1,000,000.
- d. No Contractual Liability Limitation Endorsement
- e. Additional Insured Endorsement, ISO form CG2010, current edition, or its equivalent.

2. Workers' Compensation Insurance: if applicable, as required by statute, including Employers Liability with limits of:

- a. Workers' Compensation (if applicable) Statutory
- b. Employers' Liability with limits of: \$100,000 each accident
\$500,000 disease –policy limit
\$100,000 disease each employee

3. Commercial Automobile Liability Insurance: with a limit of \$1,000,000 per occurrence, covering owned, hired, and non-owned automobiles. Coverage provided shall be on an “any auto” basis and written on an “occurrence” basis. This insurance will be written on a Commercial Business Auto form, or acceptable equivalent, and will protect against claims arising out of the operation of motor vehicles, as to acts done in connection with this Cooperative Agreement.

4. If applicable, Professional Liability Insurance with limits per claim and annual aggregate of \$1,000,000.

5. Bike Share shall deliver to City, prior to the start of any work at the site of the improvements, properly completed certificates of insurance or other evidence that the required insurance is in full force and effect, in a form acceptable to City. The receipt or acceptance of a certificate of insurance that does not incorporate the required terms and coverage shall not constitute a waiver by City of the insurance requirements contained in this Agreement.

6. All policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained by Bike Share will contain waiver provisions. The certificates of insurance will also contain a provision stating that should any of the policies described in the certificate be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.

7. If the coverage afforded is cancelled or changed or its renewal is refused, Bike Share shall give at least thirty (30) days prior written notice to City. Regardless of any approval by City, it is the responsibility of Bike Share to ensure that the required insurance coverage is procured and maintained in effect at all times. In the event Bike Share fails to ensure that the required insurance is procured and maintained in effect, or that City is named as an additional insured, City may order that the installation of the improvements immediately stop and, upon ten (10) days' notice and an opportunity to cure, may pursue its remedies for breach of this Agreement as provided for herein and by law.

Section 18. Independent Contractor. Bike Share and its Contractors are independent contractors and are not City's agents. Bike Share and its Contractors have no authority to take any action or execute any documents on behalf of City except as specifically provided for in this Agreement.

Section 19. Controlling Law. This Agreement shall be construed and governed in accordance with the laws of the State of Missouri without giving effect to Missouri's choice of

law provisions. City and Bike Share: (1) shall submit to the jurisdiction of the state and federal courts located in Jackson County, Missouri; (2) shall waive any and all objections to jurisdiction and venue; and (3) shall not raise forum non conveniens as an objection to the location of any litigation.

Section 20. Compliance with Laws. Bike Share and its Contractors shall comply with all federal, state and local laws, ordinances and regulations applicable to the installation and maintenance of the Program equipment. Bike Share shall require its Contractors to secure all occupational and professional licenses and permits from public or private sources necessary for the fulfillment of their obligations under this Agreement.

Section 21. Default and Remedies. If Bike Share shall be in default or breach of any provision of this Agreement, City may terminate this Agreement, suspend City's performance and invoke any other legal or equitable remedy after giving Bike Share notice and opportunity to correct such default or breach.

Section 22. Waiver. No consent or waiver, express or implied, by any party to this Agreement or any breach or default by any other party in the performance of its obligations under this Agreement shall be deemed or construed to be a consent to or waiver of any other breach or default in the performance of the same or any other obligations hereunder. Failure on the part of any party to complain of any act or failure to act or to declare any of the other parties in default, irrespective of how long such failure continues, shall not constitute a waiver by such party of its rights under this Agreement. The parties reserve the right to waive any term, covenant, or condition of this Agreement; provided, however, such waiver shall be in writing and shall be deemed to constitute a waiver only as to the matter waived and the parties reserve the right to exercise any and all of their rights and remedies under this Agreement irrespective of any waiver granted.

Section 23. Modification. This Agreement shall not be amended, modified or canceled without the written consent of the parties.

Section 24. Headings; Construction of Agreement. The headings of each section of this Agreement are for reference only. Unless the context of this Agreement clearly requires otherwise, all terms and words used herein, regardless of the number and gender in which used, shall be construed to include any other number, singular or plural, or any other gender, masculine, feminine or neuter, the same as if such words had been fully and properly written in that number or gender.

Section 25. Severability of Provisions. Except as specifically provided in this Agreement, all of the provisions of this Agreement shall be severable. In the event that any provision of this Agreement is found by a court of competent jurisdiction to be unconstitutional or unlawful, the remaining provisions of this Agreement shall be valid unless the court finds that the valid provisions of this Agreement are so essentially and inseparably connected with and so dependent upon the invalid provision(s) that it cannot be presumed that the parties to this Agreement could have included the valid provisions without the invalid provision(s); or unless the court finds that the valid provisions, standing alone, are incapable of being performed in accordance with the intentions of the parties.

Section 26. Assignment. Bike Share may contract for the installation and maintenance of the improvements but may not assign or transfer any part or all of their obligations or interests under this Agreement without City's prior written approval. Bike Share shall notify City, in writing, at least (30) days prior to any proposed assignment or transfer and shall provide with that notice, the proposed assignee's or transferee's written acceptance of the terms and conditions of this Agreement. Bike Share shall not be released from its obligations under this Agreement unless and until such time as it is released, in writing, by the Director of Public Works.

Section 27. Conflicts of Interest. Bike Share certifies that no officer or employee of City has, or will have, a direct or indirect financial or personal interest in this Agreement, and that no officer or employee of City, or member of such officer's or employee's immediate family, either has negotiated, or has or will have an arrangement, concerning employment to perform services on behalf of Bike Share or its contractors under this Agreement.

Section 28. No Partnership. It is expressly understood that the parties are not now, nor will they be, engaged in a joint venture, partnership or any other form of business relationship except as expressly set forth herein, and that no party shall be responsible for the conduct, warranties, guarantees, acts, errors, omissions, debts, obligations or undertaking of any kind or nature of the other in performance of this Agreement.

Section 29. Tax Compliance. Bike Share shall, upon request, furnish to City proof that it and each of its Contractors are not delinquent on any City earnings or occupational license taxes, including withholdings from their respective employees.

Section 30. Buy American Preference. It is the policy of City that any manufactured goods or commodities used or supplied be manufactured or produced in the United States whenever possible.

Section 31. Further Acts. The parties agree to perform or cause to be performed any and all such further acts as may be reasonably necessary to fulfill the terms and conditions of this Agreement.

Section 32. Cooperation. The parties shall cooperate in the implementation and performance of the acts, undertakings and obligations as set forth in this Agreement.

Section 33. Binding Effect. This Agreement shall be binding upon the parties hereto and upon their assigns, transferees and successors in interest.

Section 34. Representations. The parties certify that they have the power and authority to execute and deliver this Agreement and to perform this Agreement in accordance with its terms.

THIS AGREEMENT CONTAINS AN INDEMNIFICATION REQUIREMENT

KANSAS CITY, MISSOURI

Bike Share KC

By: _____

By: _____

Title: City Manager (or designee)

Title:

By: _____

Title: Director of Parks and Recreation

Approved as to form:

Assistant City Attorney

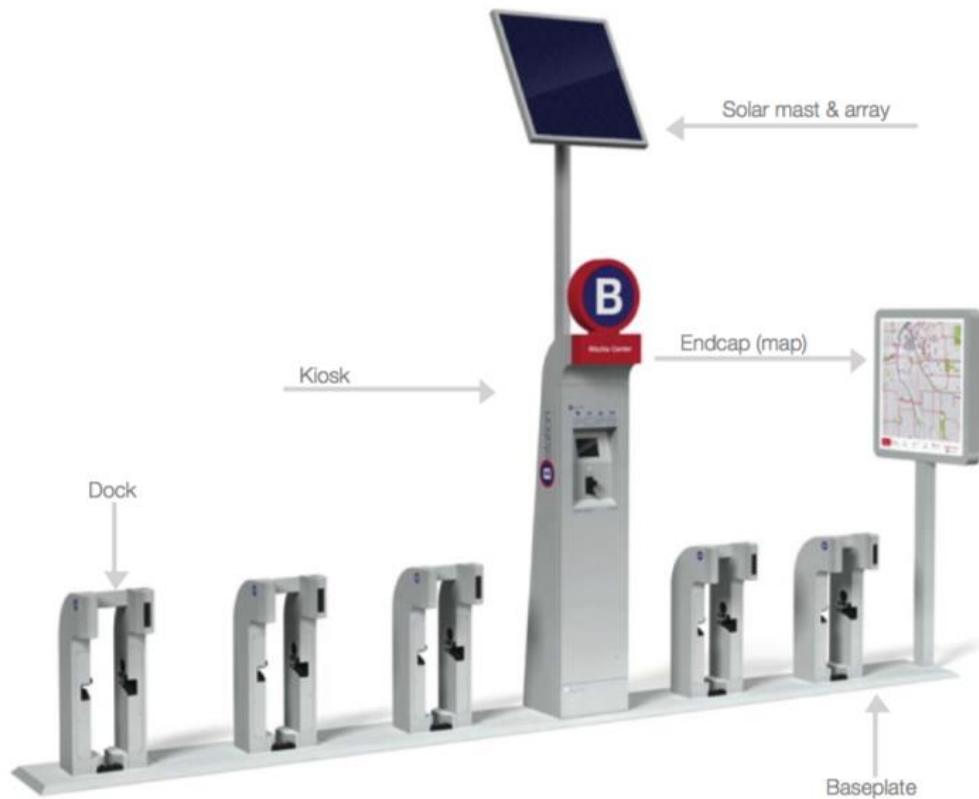
Attachment A: Station Locations

10th & Main
10th & Washington
12th & Wyandotte
12th and Oak
13th & Grand
13th & Locust
18th & Oak
18th & Swift
19th & Wyandotte
20th & Grand
29th & Swift
30th and Troost
39th & Roanoke
39th & State Line
3rd & Grand
40th & Broadway
47th & JC Nichols Pkwy.
4th & Delaware
4th & Wyandotte
51st & Holmes (UMKC)
8th & Broadway
Armour & Main
Armour and Iron
Boulevard Brewing Co.
Brookside Shops
Brookside51
Buttonwood at Union Hill
Crown Center
Gregory and Wornall
Jazz District
Kansas City Art Institute
Kauffman Foundation
Longview Lake
Martini Corner
Office
Plaza 209
Plaza Vista
The Nelson-Atkins Museum of Art
Union Station
Waldo
Ward Parkway & Broadway
Westport & Main
Westport Sunfresh

Attachment B: Signage Specifications

There are multiple versions of the station and bicycle equipment, each with variations in shape, size, and signage. Stations and bikes may also vary based on site-specific configurations and customizations. The specifications in this attachment represent the standard configuration for each version.

Version 1.0 Stations



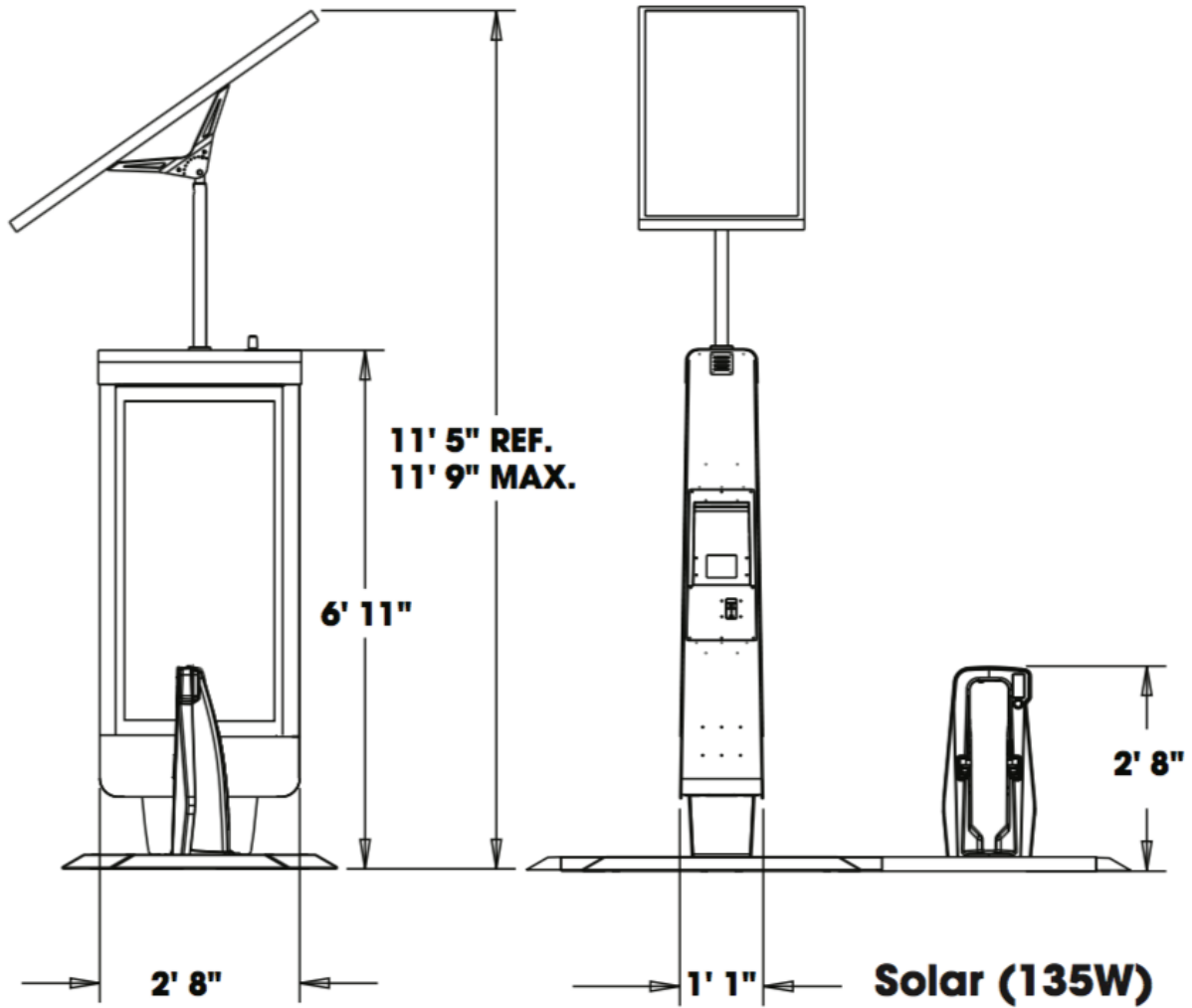
Kiosk: 72 inches tall, 15 inches wide, 9 inches deep

Wayfinding End Cap: 31 inches tall, 26 inches wide

Dock: 31 inches tall, 15 inches wide, 12 inches deep

Attachment B: Signage Specifications (continued)

Version 2.0 Stations

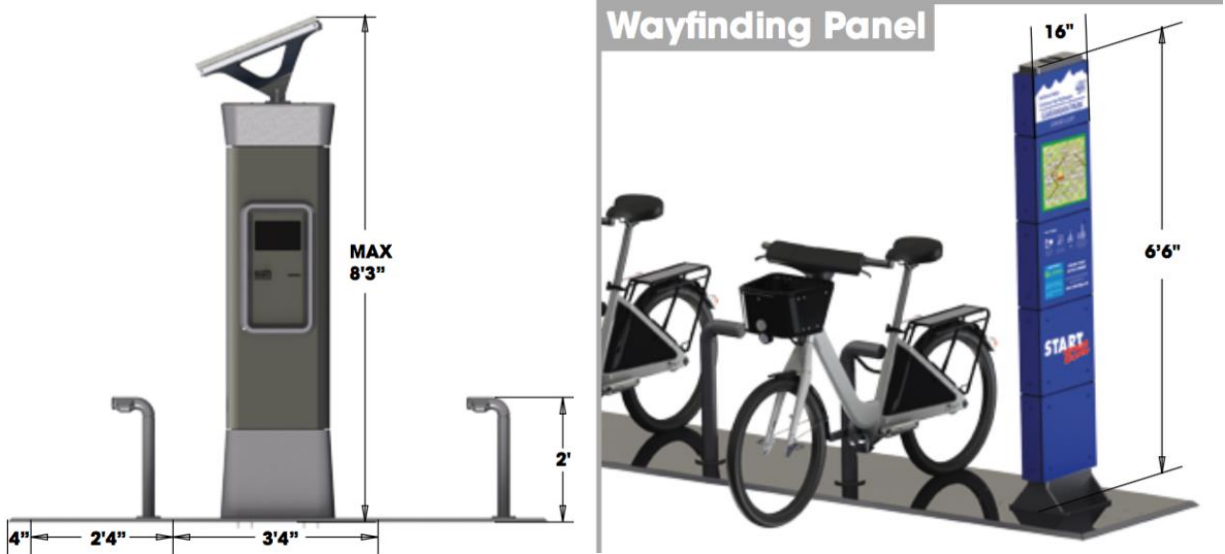


Kiosk and Wayfinding Panel: 6' 11" tall, 1' 1" wide, 2' 8" deep

Dock: 2' 8" tall, 1' wide, 9" deep

Attachment B: Signage Specifications (continued)

Version 3.0 Stations



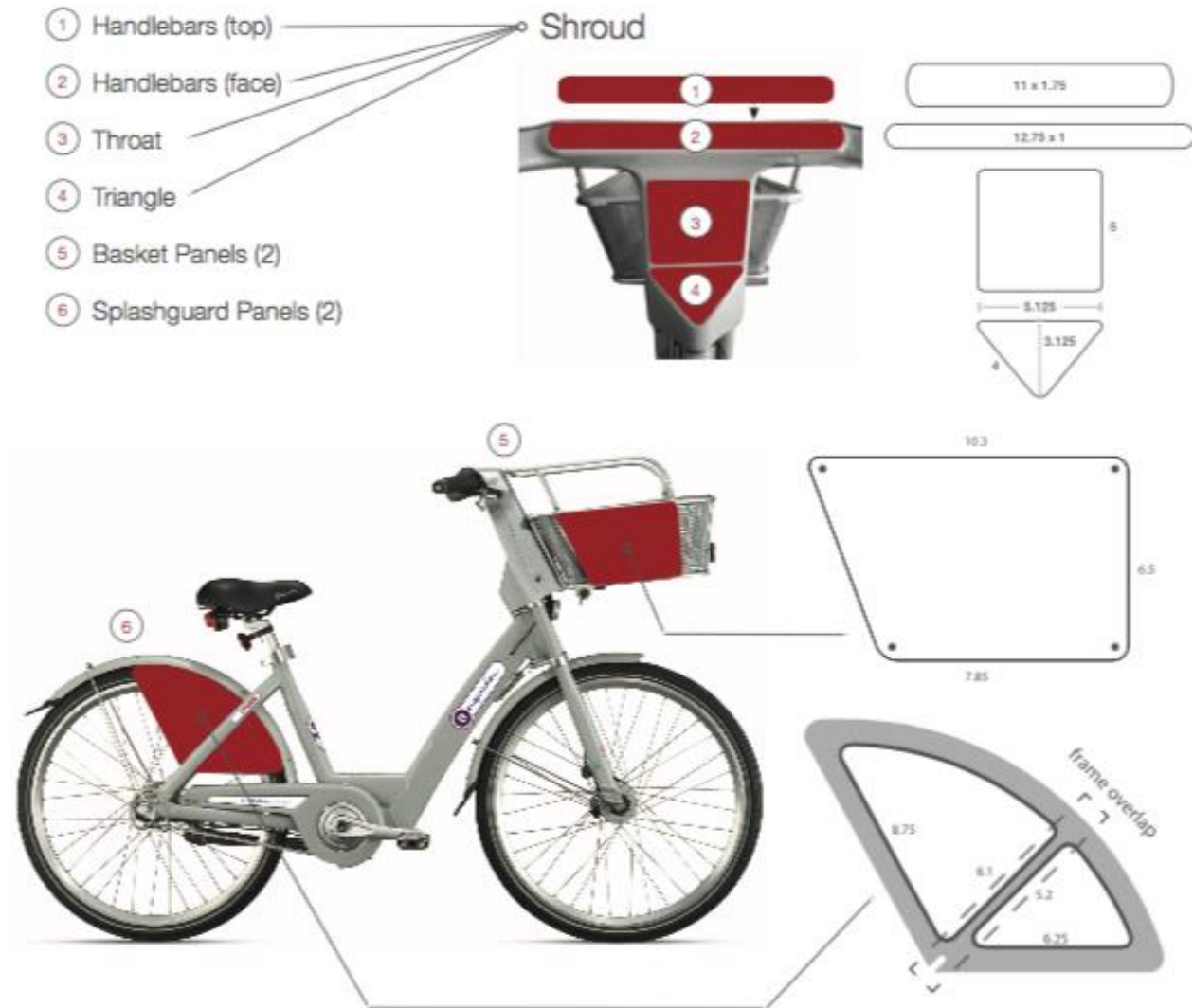
Kiosk: 8' 3'' tall, 2'6'', wide 2'' Deep

Dock: 2' tall

Wayfinding panel: 6' 6'' tall, 16'' wide, 6'' deep

Attachment B: Signage Specifications (continued)

Bicycle Equipment



Attachment B: Signage Specifications (continued)

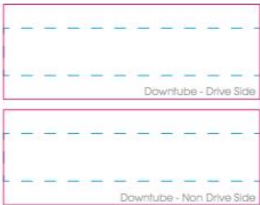
Bicycle Equipment



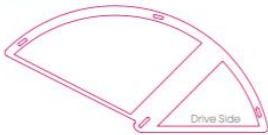
Front Shroud

Rearset Ad Panel

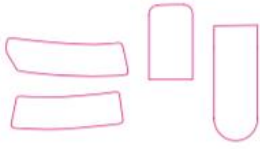
Frame Mounted Graphics



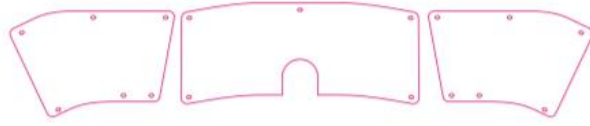
Rear Skirt Guard



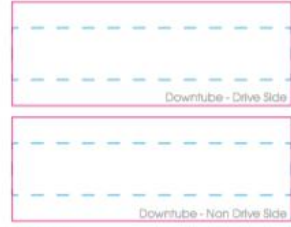
Front Shroud



Basket Ad Panel



Frame Mounted Graphics



Rear Skirt Guard

