

PROFESSIONAL SERVICES AGREEMENT FOR
SANTA CRUZ COUNTY REGIONAL BIKE SHARE PROGRAM

THIS AGREEMENT for professional services (the "Agreement") is made by and between City of Capitola ("Capitola" or "Host Agency") and BCycle ("Vendor") (referred to individually as a "Party" and collectively, as the "Parties") as of _____, 20__ (the "Effective Date"). The Parties understand that Vendor will have a Professional Services Agreement (PSA) with substantially the same terms as this Agreement with the following public entities: City of Santa Cruz, The Regents of the University of California, on behalf of its Santa Cruz campus, County of Santa Cruz, City of Capitola, City of Watsonville, and Cabrillo College (each a "Participating Jurisdiction" and collectively, the "Participating Jurisdictions")

NOW, THEREFORE, in consideration of each other's mutual promises, the Parties hereto agree as follows:

SECTION 1: SCOPE OF WORK

Vendor will furnish work and services as defined and described in the Scope of Work (the "Regional Bike Share Program"), attached hereto as **Exhibit A** and incorporated herein.

SECTION 2: RESPONSIBILITIES OF VENDOR

All work performed by Vendor, or under Vendor's direction, shall be rendered in accordance with the generally accepted industry practices, and to the standards of, Vendor's profession. Vendor represents and warrants that Vendor: (i) is fully experienced and properly qualified to perform the work and services provided for herein, (ii) has the experience and financial and operational capability required for the performance of the work and services, and (iii) is properly equipped and organized to perform the work and services in a competent, timely, and proper manner, in accordance with the requirements of this Agreement.

Vendor shall not undertake any work or services beyond the **Scope of Work** set forth in **Exhibit A** unless such additional work is approved in advance and in writing by Host Agency.

If, in performing the work, it is necessary to conduct field operations, security and safety of the job site will be the Vendor's responsibility.

Vendor shall meet with designated staff member(s) of Host Agency, City Manager hereinafter called "authorized representative", or other designated, delegated and/or authorized Host Agency personnel, as necessary, on all matters connected with carrying out of Vendor's services described in **Exhibit A**. Such meetings shall be held at the request of either Party. Review, approval, or acceptance of Vendor's work shall not relieve Vendor from responsibility for errors and omissions in Vendor's work.

SECTION 3: RESPONSIBILITIES OF THE HOST AGENCY

Host Agency shall make available to Vendor all necessary data and information in the Host Agency's possession and shall actively assist Vendor in obtaining such information as needed. Vendor is entitled to reasonably rely upon the accuracy and completeness of such data and information, provided that Vendor shall provide Host Agency prompt written notice of any known defects in such data and information.

The work in progress shall be reviewed at such intervals as may be mutually agreed upon between the Parties. Host Agency will be the sole judge of acceptable work under this Agreement for work and services performed, provided that such approval will not be unreasonably withheld or delayed. If the work is not acceptable, Host Agency will inform Vendor of the changes or revisions necessary to secure approval.

SECTION 4: FEES AND PAYMENT

There will be no cost to the Host Agency for Vendor's services in accordance with the Scope of Work. Vendor is solely responsible for the costs of all equipment, set up, maintenance, required license fees, permits, taxes, and costs for compliance with all applicable regulations in performing its obligations related to this Agreement. Vendor is also subject to reimbursing the Host Agency for electricity costs and other costs, as applicable, as may be agreed to by the Parties. Vendor agrees to make available similar or the same terms to the benefit of each of the Participating Jurisdictions, if applicable.

If applicable, Vendor shall reimburse the Host Agency for the electricity costs on a monthly basis on the first day of each month unless otherwise directed by Host Agency.

If the required reimbursement payment are not received by the Host Agency within 60 days of receipt of an invoice, Vendor shall pay to the Host Agency an additional one and one-half percent (1.5%) per month on the unpaid balance until paid. The Parties agree that said late charges and interest represent a fair and reasonable estimate of the costs that the Host Agency will incur by reason of late payment by Vendor. The acceptance by the Host Agency of any late charge shall not constitute a waiver of Vendor's default with respect to the overdue amount, nor prevent the Host Agency from exercising any of the other rights and remedies available to the Host Agency under this Agreement or as provided by law.

SECTION 5: LICENSE TO USE PROPERTY

(a) Vendor shall conduct its activities and use Host Agency property and the other public right-of-way strictly in accordance with the terms of: (i) **Conditions of Use of Public Property** as set forth in **Exhibit H** attached to this Agreement setting forth the provisions approved by the Host Agency for the Regional Bike Share program and all other applicable permits, licenses, rules, and regulations related to Vendor's performance of its obligations under the Agreement.

(b) Vendor shall at all times conduct itself and use of property, public right-of-way, and site(s) which have been approved for Vendor's use, in such a manner so as not to damage any property of Host Agency or the public right-of-way except for ordinary wear and tear. Vendor shall be liable to Host Agency for any damage to any property arising out of or in any way directly or indirectly related to any action or activity of Vendor, or its employees, agents, or contractors, except for ordinary wear and tear.

(c) Vendor shall consult with Host Agency and not make any structural improvements, alterations or additions to any site on any Host Agency's property or public right-of-way without the appropriate prior written consent (which consent may be withheld, conditioned or delayed at the Host Agency's sole and absolute discretion). Any and all such improvements, alterations, and additions shall be in conformity with all applicable laws, rules and/or regulations.

(d) Vendor shall timely pay all claims for labor and/or materials furnished to or for Vendor relating to the Regional Bike Share Program; and Vendor shall keep the Host Agency free and clear of any liens arising therefrom. Vendor shall not create, permit, or suffer any mechanic's or materialmen's liens of any kind or nature to be enforced against

the Host Agency for any such work or activities performed. Licensee shall indemnify, defend and hold harmless the Host Agency and the Participating Jurisdictions, their respective officials, officers, Regents, and employees from and against any and all liens, claims, demands, liabilities, reasonable costs and/or expenses of whatever kind or nature in any way connected with or growing out of such work done, labor performed and/or materials furnished on Vendor's behalf. If any such liens shall be filed against the Host Agency, Vendor shall cause the same to be paid, discharged, released and satisfied within a commercially reasonable time, not to exceed thirty (30) business days from the date the same were recorded in the office of the applicable County Recorder.

SECTION 6: CHANGES IN WORK

Host Agency may negotiate changes in the Scope of Work, but no changes in the Scope of Work shall be made without the written approval of Host Agency and Vendor. Any change requiring compensation in excess of the sum specified in **Exhibit D** shall be approved in advance in writing by the Host Agency. Only Host Agency's authorized representative(s), with the approval of Host Agency's legislative body, if applicable, is authorized to approve changes to this Agreement on its behalf.

SECTION 7: TIME OF BEGINNING AND SCHEDULE FOR COMPLETION

The term of this Agreement shall begin on the Launch Date and expire five (5) years thereafter, with the option for additional successive terms upon mutual agreement of Host Agency and Vendor.

Vendor shall begin work as specified in a written authorization (e.g. Notice to Proceed) to perform services. The written authorization to perform work shall not be issued until after this Agreement has been approved and authorized by the Host Agency. Any extension of the initial five (5) year term shall be subject to the approval of the Host Agency and the Vendor.

The Work Schedule for performance of services and target dates for the work shall be as shown upon **Exhibit E**. If major changes are ordered, the schedule for completion as stated in **Exhibit E** may be adjusted by Host Agency so as to allow Vendor a reasonable period of time within which to complete any additional work which may be required as a result of the ordered changes.

The Host Agency reserves the right to obtain the item(s) and/or services covered by this Agreement from another source during any on-going suspension of service due to the circumstances outlined above.

Vendor acknowledges that it is necessary for Vendor to perform its obligations as set forth in **Exhibit E** in order to allow the Host Agency and the Participating Jurisdictions to achieve their objectives for entering into their respective contracts with Vendor. The Parties therefore agree that time is of the essence in the performance of this Agreement.

SECTION 8: TERMINATION

The Host Agency may terminate the Agreement for convenience beginning on the third (3rd) anniversary of the Launch Date by providing written notice to Vendor not less than 90 calendar days prior to an effective termination date. The Host Agency may terminate this Agreement at any time if the Vendor fails to cure a material default in performance or material breach within a period of 30 calendar days (or such longer period agreed to by the Host Agency), from the date of the Host Agency's written termination notice specifying the default in performance.

Beginning on the second (2nd) anniversary of the Launch Date, Vendor shall have the right to terminate this Agreement following 90 days' written request to cure in the event that:

1. The minimum number of Electric Bicycles and docks are not satisfied with respect to each of the Participating Jurisdictions, as set forth in Section 2 of **Exhibit A** (Scope of Work) attached hereto;
2. The consolidated ridership across all Participating Jurisdictions is fewer than two (2) user trips per Electric Bike per date over any continuous six (6) month period as measured from the start of the second (2nd) anniversary of the Launch Date.

In addition, Vendor shall have the right at any time to terminate this Agreement upon 90 days' written notice in the event that combined annual rate of theft and vandalism rendering bikes inoperable exceeds twenty percent (20%) of the overall bike fleet, the size of which shall be measured by the rolling average of available bicycles over the prior year; provided, however, that in order to exercise such termination right (i) Vendor shall have made commercially reasonable efforts to mitigate the theft of bicycles (including but not limited to: requesting cameras, relocating equipment, requesting more police or community safety deterrence, and/or replacing hardware), and (ii) Vendor shall have filed or otherwise documented police reports for each stolen bicycle.

Subject to the prior notice requirements to the other Participating Jurisdictions, as stated above, Vendor may terminate this Agreement if the Host Agency fails to cure a material default in performance within a period of 30 calendar days (or such longer period agreed to by the Vendor), from date of the Vendor's written termination notice specifying the default in performance.

Upon notice of termination by either the Host Agency or Vendor, the Vendor will immediately act to not incur any additional obligations, costs or expenses, except as may be reasonably necessary to terminate its activities. All finished or unfinished work or documents procured or produced under the Agreement will become property of the Host Agency upon the termination date. In the event of Vendor's failure to perform pursuant to the Agreement, the Host Agency reserves the right to obtain services elsewhere. Termination of the Agreement pursuant to this paragraph shall not relieve the Vendor of any liability to the Host Agency for additional costs, expenses, or damages sustained by the Host Agency due to failure of the Vendor to perform pursuant to the Agreement. After the effective date of termination, Vendor will have no further claims against the Host Agency under the Agreement. No other compensation will be payable for anticipated profit on unperformed services. [Please note: This term may be individually negotiated with each participating jurisdiction in the individual PSAs]

SECTION 9: INSURANCE

Prior to the beginning of and throughout the duration of the Agreement, Vendor will maintain and comply with the **Insurance Requirements** as set forth in **Exhibit G**. Vendor will insure the Host Agency and the Participating Jurisdictions against claims for injury or death to persons or damages to property which may arise from or in connection with the performance of the work hereunder. The insurance coverages required shall not in any way limit the liability of the Vendor.

SECTION 10: INDEMNIFICATION/WAIVER

Vendor agrees, to the fullest extent permitted by law, to indemnify, defend, and hold harmless the Host Agency, and its respective officials, officers, employees, agents, students, and volunteers (collectively, "Indemnitees") from and against any and all liability, claim, action, loss, injury, damage, judgment, or expense, including attorneys' fees and costs ("Losses") caused by or resulting from the negligence, recklessness, or willful misconduct of Vendor, Vendor's officers, employees, agents, customers, invitees, or subcontractors in any way related to this Agreement.

Vendor's duty to indemnify and hold harmless Indemnitees shall not apply to the extent such Losses are caused by the sole or active negligence or willful misconduct of Indemnitees, as determined by an adjudicatory body or court of competent jurisdiction. The obligation to defend shall arise regardless of any claim or assertion that Indemnitees caused or contributed to the Losses. This provision shall survive the termination or expiration of this Agreement.

Assumption of Risk, Hold Harmless, and Release. Vendor agrees to require its customers (in a form acceptable to the Host Agency and other Participating Jurisdictions) to expressly consent to assume any and all risks and responsibility arising from use of the Vendor's services and to hold harmless and release all Participating Jurisdictions and their respective officers, agents and employees, from and against any and all liability arising from the customer's use of Vendor's services.

SECTION 11: AMENDMENTS

This Agreement may not be amended in any respect except by way of a written instrument which expressly references and identifies this particular Agreement, which expressly states that its purpose is to amend this particular Agreement, and which is duly executed by the Host Agency and Vendor. Vendor acknowledges that no such amendment shall be effective until approved and authorized by the Host Agency's authorized representative. Vendor agrees to make available similar or the same terms to the benefit of each of the Participating Jurisdictions, if applicable.

SECTION 12: MISCELLANEOUS PROVISIONS

1. Vendor Key Staff. Host Agency reserves the right to consult with Vendor regarding Vendor's selection of General Manager and Operations Director, and other key staff assigned by Vendor to work under this Agreement. If, after notice and a reasonable opportunity for Vendor to address any Host Agency concerns regarding key staff, Host Agency desires a change of Vendor key staff assigned to work under this Agreement, Vendor shall replace the key staff at issue or Host Agency shall have the right to terminate this Agreement for cause.
2. Vendor Services Only. Vendor is contracted to render professional services only as the exclusive bike share provider for the Host Agency for the term of the Agreement.
3. Independent Contractor. In the performance of this Agreement, it is expressly understood that Vendor, including each of Vendor's employees, agents, subcontractors or others under Vendor's supervision or control, is an independent contractor solely responsible for its own acts and omissions, and shall not be considered an employee of the Host Agency for any purpose. Nothing in this Agreement will be construed to create any joint venture or partnership between the Host Agency, any of the Participating Jurisdictions or Vendor. Vendor agrees to comply with AB 5 (2019), codified at California Labor Code section 2750.3, and shall indemnify, defend and hold harmless the Host Agency, their respective officials, officers, employees, and agents against any claim or liability, including attorneys' fees and costs, arising in any manner related to this Agreement that an employee, agent or others under Vendor's supervision or control was misclassified.
4. Vendor Not an Agent. Except as the Host Agency may specify in writing, Vendor shall have no authority, express or implied, to act on behalf of the Host Agency. Vendor shall have no authority, express or implied, pursuant to this Agreement to bind the Host Agency to any obligation whatsoever.

5. Subcontractors Upon Request from Host Agency. Vendor shall consult with Host Agency regarding any issues or concerns with Vendor's selected subcontractors. If after notice and an opportunity to address any concerns the Host Agency determines any subcontractor is incompetent or unqualified, Vendor will be notified and will be expected to immediately cancel the subcontract. Vendor shall require and verify that all subcontractors maintain insurance meeting all of the requirements stated herein, including naming the Host Agency, its officers, officials, employees, agents, and volunteers as additional insureds. Any modification to the insurance requirements for subcontractors must be agreed to by the Host Agency in writing.
6. Assignment. This Agreement shall not be assigned without first obtaining the express written consent of the Host Agency. Neither Party may assign this Agreement unless this Agreement is amended in accordance with its terms.
7. Conflicts of Interest. Vendor owes the Host Agency a duty of loyalty in performing the work and services under this Agreement. Vendor covenants (on behalf of Vendor and Vendor's employees, agents, representatives, and subcontractors) that there is no direct or indirect interest, financial or otherwise, which would conflict in any manner or degree with the performance of services required under this Agreement. Vendor acknowledges and agrees to comply with applicable provisions of conflict of interest law and regulations, including but not limited to the Political Reform Act, Section 1090 of the Government Code, and the Host Agency's conflict of interest code. Vendor will immediately advise the Host Agency if Vendor learns of a conflicting financial interest of Vendor during the term of this Agreement.
8. Intellectual Property, Data Security, and Indemnity.
 - a. Intellectual Property. Intellectual Property is defined as any marks, marks application, patent, patent application, moral right, trade secret, copyright and any applications or right to apply for registration, computer software programs or applications, tangible or intangible proprietary information, or any other intellectual property right in data, goods, products, or services, including any corrections, enhancements, updates, modifications, or derivative works, in any media, or any other intellectual property right, whether registered or unregistered, and whether first made or created before or after the Effective Date). For the avoidance of doubt, Vendor's Intellectual Property shall include, but not be limited to, Vendor's software programs, User Platform, Operator Platform, and Lock.
 - b. No Infringement. Vendor represents to the Host Agency that Vendor's Intellectual Property used in connection with any work, services and/or products related to this Agreement does not violate or infringe upon any intellectual property or other ownership rights of any other person or entity.
 - c. Data Breach and Security. Vendor represents and warrants that its collection, access, use, storage, disposal, and disclosure of transaction and usage data does and will comply with all applicable federal, state, and local privacy and data protection laws, rules, regulations, and directives. In the event of a data security and/or data breach or suspected data security and/or data breach, which includes a compromise or suspected compromise of the security, confidentiality, or integrity of any user transaction data related to this Agreement, Vendor shall notify Host Agency and Participating Jurisdictions in writing of any breach as soon as practicable, but no later than thirty-six (36) hours after Vendor becomes aware of such breach. Vendor shall (at its sole cost and expense) use commercially reasonable efforts to immediately remedy any breach and prevent any further data security or data breach in accordance with applicable privacy

rights, laws, rules, regulations, and standards. Vendor shall also, at its sole cost and expense, be responsible for all required notice obligations to individuals whose data was or may have been breached or compromised.

d. PCI Compliance. Vendor shall ensure fees are collected from its customers, and otherwise provide the goods and services, in compliance with then-current Payment Card Industry's Data Security Standards ("PCI DSS"), or successor industry standards, and with applicable federal and California state law concerning the protection of user data.

e. Indemnity. To the fullest extent permitted by law, Vendor agrees to indemnify, defend, and hold harmless Host Agency, its respective officials, officers, employees, and agents, from any and all claims, demands, actions, liabilities, damages, or expenses (including reasonable attorneys' fees and costs) arising out of a claim of infringement, actual or alleged, direct or contributory, of any Intellectual Property rights in any way related to Vendor's work, service, or performance under this Agreement or to the Host Agency's or a Participating Jurisdiction's authorized intended or actual use of Vendor's product, work, or service under this Agreement. This provision shall survive termination or expiration of this Agreement.

f. Claims of Infringement. If any product or service becomes, or in the Vendor's opinion is likely to become, the subject of a claim of infringement, the Vendor shall, at its sole expense: (i) provide the Host Agency and Participating Jurisdictions the right to continue using the product or service; or (ii) replace or modify the product or service so that it becomes non-infringing; or (iii) if none of the foregoing alternatives are possible even after Vendor's commercially reasonable efforts, in addition to other available legal remedies, the Host Agency and Participating Jurisdictions will have the right to return the product or service and receive a full or partial refund of an amount equal to the value of the returned product or service, less the unpaid portion of the purchase price and any other amounts, which may be due to the Vendor. Vendor will return to Host Agency and each of the other Participating Jurisdictions their respective data and proprietary information at no charge prior to any return of the product or termination of service.

g. Proprietary Marks. Marks associated with Host Agency, Vendor, and any sponsor are and shall remain the property of Host Agency, Vendor, and the sponsor, respectively. Notwithstanding the above and subject to the limitations, terms, and conditions set forth in this Agreement, neither Party shall use the other Party's marks without the prior written consent of the other Party, unless expressly permitted by this Agreement.

9. Data and Confidentiality.

- a. Vendor shall not acquire any ownership interest in data and information ("Host Agency Data") received by Vendor from the Host Agency, which shall remain the property of the Host Agency.
- b. Data collected by Vendor ("Vendor Data") that is not Host Agency Data shall remain the property of Vendor, with the understanding that this does not alter the data sharing requirements in **Exhibit B**.

- c. Certain information may be considered confidential. Confidential Information shall mean all information or proprietary materials (in every form and media) not generally known to the public and which has been or is hereafter disclosed or made available directly or indirectly through any means of communication, either verbally or in writing, that has been designated in writing as “Confidential” by the Disclosing Party prior to its disclosure in connection with this Agreement (“Confidential Information”). Unless otherwise required by law, neither Party shall, without the other Party’s express written permission, use or disclose Host Agency Data and/or Confidential Information of the other Party, other than in the performance of the obligations under this Agreement. As between Vendor and the Host Agency, all Confidential Information shall remain the property of the respective Parties.
- d. Vendor shall be responsible for ensuring and maintaining the security and confidentiality of Host Agency Data and Confidential Information, protect against any anticipated threats or hazards to the security or integrity of Host Agency Data and Confidential Information, protect against unauthorized access to or use of Host Agency Data and Confidential Information that could result in substantial harm or inconvenience to the Host Agency or any end users; and ensure the proper return and/or disposal of Host Agency Data and Confidential Information upon termination of this Agreement with notice to the Host Agency.
- e. Vendor shall take appropriate action to address any incident of unauthorized access to Host Agency Data and Confidential Information, including addressing and/or remedying the issue that resulted in such unauthorized access, notifying Host Agency and other Participating Jurisdictions as soon as possible of any incident of unauthorized access to Host Agency Data and Confidential Information, or any other breach or suspected breach in Vendor’s security that materially affects Host Agency, other Participating Jurisdictions, or end users; and be responsible for ensuring compliance by its officers, employees, agents, and subcontractors with the confidentiality provisions hereof. Should confidential and/or legally protected Host Agency Data be divulged to unauthorized third parties, Vendor shall comply with all applicable federal and state laws and regulations, including but not limited to California Civil Code sections 1798.29 and 1798.82 at Vendor’s sole expense. Vendor shall not charge Host Agency for any expenses associated with Vendor’s compliance with these obligations.
- f. Limitations on Use of Confidential Information. Each Party acknowledges that it may receive Confidential Information from the other Party during the Term of this Agreement. The Receiving Party shall not disclose the Disclosing Party’s Confidential Information to any third party and shall limit disclosure of such Confidential Information to employees, agents, contractors, investors, advisors, and financial institutions having a need-to-know, provided that each are under confidentiality obligations similar to those contained herein. The Disclosing Party’s Confidential Information may only be used by the Receiving Party for the purpose of implementing this Agreement. Any and all copies by Receiving Party of a Disclosing Party’s Confidential Information shall reproduce, without modification, any and all proprietary markings and other legends contained thereon. The Receiving Party shall treat Confidential Information as it does its own valuable and sensitive information of a similar nature, and, in any event, with not less than reasonable care. Upon the Disclosing Party’s written request, the Receiving Party shall return or certify the destruction of all Confidential Information.
- g. Exceptions to Confidentiality Restrictions. The confidentiality obligations of each Party under this Agreement will not apply to information that the Receiving Party can demonstrate (i) was in its possession at the time of disclosure without restriction as to confidentiality, (ii) at the time of disclosure is generally

available to the public or after disclosure becomes generally available to the public through no breach of agreement or other wrongful act by the Receiving Party, (iii) has been received from a third party without restriction on disclosure and without breach of agreement or other wrongful act by the Receiving Party or, to the Receiving Party's knowledge at the time of such disclosure, by such third party, (iv) is independently developed by the Receiving Party without use of the Confidential Information of the Disclosing Party, or (v) is required to be disclosed by law or order of a court of competent jurisdiction or regulatory authority, provided that the Receiving Party shall furnish prompt written notice of such required disclosure to the Disclosing Party.

- h. Remedies. The Parties acknowledge that failure on the part of a Receiving Party to abide by this Section will cause the Disclosing Party irreparable harm for which damages will not be an adequate remedy at law. Accordingly, the Disclosing Party has the right to an injunction to prevent any violations or attempted violations of this Section and to recover court costs and reasonable attorney fees incurred by the Disclosing Party in the enforcement of this Section.
 - i. Indemnification. Vendor shall defend, indemnify and hold harmless Host Agency, its officials, officers, Regents, employees and agents against any claim, liability, loss, injury or damage (including attorneys' fee and costs) arising out of, or in connection with, the unauthorized use, access, and/or disclosure of Host Agency Data or data of one or more Participating Jurisdictions, and/or Confidential Information by Vendor and/or its agents, employees or subcontractors, excepting only loss, injury or damage caused by the sole negligence or willful misconduct of the Host Agency. This provision shall survive the termination or expiration of this Agreement.
10. Warranty. Vendor warrants that the goods, work, and services shall be provided and/or performed pursuant to the accepted practices and to the standards of vendor's industry.
 11. Exception to Limitation of Liability. Any limitation of liability agreed to by the Parties shall not apply to Vendor's indemnification obligations, to Vendor's data breach obligations, or to the Parties' confidentiality obligations as set forth in this Agreement.
 12. Vendor's Records. Vendor shall maintain accurate accounting records and other written documentation pertaining to the costs incurred relating to this Agreement for examination and audit by the Host Agency, Participating Jurisdictions, State, or federal government, as applicable, during the period of this Agreement, and for a period of at least five years from the date of the termination of this Agreement, unless otherwise stated herein. If Vendor engages a subcontractor to perform work related to this Agreement with a cost of \$10,000 or more over a 12-month period, such subcontract shall contain these same requirements. This provision shall survive the termination of this Agreement.[this needs to stay in]
 13. California Public Records Act. Vendor understands that Host Agency is a public agency subject to the disclosure requirements of the California Public Records Act ("CPRA"). If Vendor's proprietary information is contained in documents or information submitted to Host Agency, and Vendor claims that such information falls within one or more CPRA exemptions, Vendor must clearly mark such information "Confidential and Proprietary," and identify the specific lines containing the information. In the event of a request for such information. Host Agency will make best efforts to provide notice to Vendor prior to such disclosure. If Vendor contends that any documents are exempt from the CPRA and wishes to prevent disclosure, it is required to obtain a protective order, injunctive relief or other appropriate remedy from a court of law in Santa Cruz County

before the Host Agency is required to respond to the CPRA request. If Vendor fails to obtain such remedy within the time the Host Agency is required to respond to the CPRA request, the Host Agency may disclose the requested information without any liability to Vendor. Vendor further agrees that it shall defend, indemnify and hold the Host Agency harmless against any claim, action or litigation (including but not limited to all judgments, costs, and attorney's fees) that may result from denial by the Host Agency of a CPRA request for information arising from any representation, or any action (or inaction), by the Vendor.

14. Compliance with Laws. All activities of Vendor, its employees, subcontractors and/or agents will be carried out in compliance with all applicable federal, state, and local laws and regulations.
15. Licensure. Vendor warrants that Vendor, its subcontractors and/or agents (if any) has/have complied with any and all federal, state, and local licensing requirements and agrees to provide proof of such.
16. Prevailing Wages for Public Work. To the extent that a portion of the work or services to be performed under this Agreement may be considered a "public work" (construction, alteration, demolition, or repair work) pursuant and subject to Labor Code section 1720 *et seq.*, Vendor (and any subcontractor performing the work or services) shall conform to any and all prevailing wage requirements applicable to such portion of the work/and or services under this Agreement. Vendor (and any subcontractor/) shall adhere to the prevailing wage determinations made by the Director of Industrial Relations (DIR) pursuant to California Labor Code Part 7, Chapter 1, Article 2, applicable to the work, if any. All workers employed in the execution of a public works contract (as such term is defined California Labor Code section 1720 *et seq.* and section 1782(d)(1)) must be paid not less than the specified prevailing wage rates for the type of work performed. (CA Labor Code sections 1720, 1774 and 1782.)

To the extent applicable to the scope of work and services under this Agreement, Vendor agrees to be bound by the state prevailing wage requirements, including, but not limited to, the following:

- a. If a worker is paid less than the applicable prevailing wage rate owed for a calendar day (or any portion thereof), Vendor shall pay the worker the difference between the prevailing wage rate and the amount actually paid for each calendar day (or portion thereof) for which the worker(s) was paid less than the prevailing wage rate, as specified in Labor Code section 1775;
- b. Vendor shall maintain and make available payroll and worker records in accordance with Labor Code sections 1776 and 1812 with respect to portion of the work or services that is a "public work";
- c. If Vendor employs (and/or is legally required to employ) apprentices in performing the work and/or services under this Agreement, Vendor shall ensure compliance with Labor Code section 1777.5;
- d. Vendor is aware of the limitations imposed on overtime work by Labor Code sections 1810 *et seq.* and shall be responsible for any penalties levied in accordance with Labor Code section 1813 for failing to pay required overtime wages;
- e. Vendor shall post a copy of the applicable prevailing wage rates at each "public work" jobsite at a location readily available to its workers performing covered work.

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- f. Any failure of Vendor and/or its subcontractor to comply with the above requirements relating to a public work project shall constitute a breach of this Agreement that excuses the Host Agency's performance of this Agreement at the Host Agency's sole and absolute option and shall be at the sole risk of Vendor. Vendor on behalf of itself and any subcontractor, agree to indemnify, defend and hold harmless the Host Agency and its officials, officers, employees, and agents from and against any and all claims, liabilities, losses, costs, expenses, attorney's fees, damages, expenses, fines, financial consequences, interest, and penalties, of any kind or nature, arising from or relating to any failure (or alleged failure) of the Vendor and any subcontractor to pay prevailing wages or to otherwise comply with the requirements of prevailing wage law relating to a public work.
- g. Vendor acknowledges that it and/or any subcontractor may not engage in the performance of any contract for public work unless currently registered with the DIR and qualified to perform public work pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)].
17. Dispute Resolution. The Parties agree to attempt in good faith to resolve through negotiation any dispute, claim or controversy arising out of or relating to this Agreement. Either party may initiate negotiations by providing written notice in letter form to the other party, setting forth the subject of the dispute and the relief requested. Promptly upon such notification, the Parties shall meet at a mutually agreeable time and place in order to exchange relevant information and perspective, and to attempt to resolve the dispute. If no resolution is achieved, and if, but only if, the parties mutually agree, then prior to pursuing formal legal action, the parties shall make a good faith effort to resolve the dispute by non-binding mediation or negotiations between representatives with decision-making power, who, to the extent possible, shall not have had substantive involvement in the matters of the dispute. To the extent that the dispute involves or relates to a public works project, the Parties agree to attempt to resolve the dispute by complying with the claims process as set forth in Public Contract Code section 9204(e), but without waiving the requirements of the California Tort Claims Act, Gov't Code section 800 et seq. unless otherwise agreed to by the Parties.
18. Force Majeure. Neither Party hereto shall be considered in default in the performance of its obligation hereunder to the extent that the performance of any such obligation is prevented or delayed by an act of God, natural disaster, pandemic, supply chain shortages, acts of terrorism, war, or other peril, which is beyond the reasonable control of the affected party and without the negligence of the respective Parties (a "Force Majeure event"). Each Party hereto shall give notice promptly to the other of the nature and extent of any Force Majeure claimed to delay, hinder or prevent performance of the services under this Agreement. Each Party will, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and will, upon the cessation of the cause, diligently pursue performance of its obligations in this Agreement. If either Party is prevented or delayed in the performance of its respective obligation by reason of such Force Majeure, there may be an equitable adjustment of the schedule based on discretion of the Host Agency with input from the Participating Jurisdictions, if applicable. Vendor shall provide documentation of such event(s) and the reasonable efforts to remove or eliminate the cause of delay or default.
19. Complete Agreement. This Agreement, along with any attachments or exhibits, is the full and complete integration of the Parties' agreement with respect to the matters addressed herein, and that this Agreement supersedes any previous written or oral agreements between the Parties with respect to the matters addressed herein. Unless otherwise stated, to the extent there is any conflict between this Agreement and any other agreement (written or oral), the terms of this Agreement shall control.

- 20. Severability. The unenforceability, invalidity or illegality of any provision(s) of this Agreement shall not render the other provisions unenforceable, invalid or illegal.
- 21. Waiver. Waiver by any party of any portion of this Agreement shall not constitute a waiver of the same or any other portion hereof.
- 22. Governing Law and Venue. This Agreement shall be governed by and interpreted in accordance with California law. The exclusive jurisdiction and venue for any and all actions arising out of or brought under this Agreement is California state court in Santa Cruz County, California.
- 23. Contract Interpretation. Each party acknowledges that it has reviewed this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement.
- 24. Notices. If either Party shall desire or is required to give notice to the other Party, such notice shall be given in writing, via email and concurrently delivered by overnight Federal Express [or priority U.S. Mail], addressed to recipient as follows:

To HOST AGENCY:

City of Capitola
Jamie Goldstein
City Manager
420 Capitola Avenue
Capitola, CA 95010
jgoldstein@ci.capitola.ca.us

To VENDOR:

Business Name
Vendor Contact Name
Address
Email/Phone

- 25. Counterparts. The Parties may execute this Agreement in two or more counterparts, which shall, in the aggregate, be deemed an original but all of which, together, shall constitute one and the same instrument. A scanned, electronic, facsimile or other copy of a party’s signature shall be accepted and valid as an original.
- 26. Warranty of Authority. The signatories to this Agreement warrant and represent that each is authorized to execute this Agreement and that their respective signatures serve to legally obligate their respective representatives, agents, successors and assigns to comply with the provisions of this Agreement.

Attached Exhibits

Exhibit A: Scope of Work

Exhibit B: Data reports from Vendor

Exhibit C: Description of Goods – Bicycles, Docks, Locks, and Technology

Exhibit D: Fee schedule - User Fees and Fees for Use of Public Property

Exhibit E: Target dates for work schedule

Exhibit F: Service Level Agreement

Exhibit G: Required Insurance

Exhibit H: Conditions of Use of Public Property

Exhibit I: Vendor Organizational Chart

[SIGNATURES ON FOLLOWING PAGE]

Signed for and on behalf of:

City of Capitola

By: _____

Date: _____

Approved As to Form:

By: _____

Date: _____

BCycle (VENDOR)

By: _____

Date: _____

EXHIBIT A: SCOPE OF WORK

Purpose and Objectives

The goal of a Regional Bicycle Sharing Program in the Santa Cruz County region is to encourage bicycle use as an appealing, convenient, affordable, active, healthy, environmentally friendly, and congestion-reducing transportation option that is accessible to all residents, commuters, students, visitors and tourists alike. The program aims to leverage existing transportation investments and provide a network of bike share stations and bikes that increase multi-modal transportation options throughout the region.

1. DEFINITIONS

Capitalized terms used in this Agreement shall have the meanings given to them below.

1.1. “Advertising” shall mean any content or matter, whether electronic or printed, including words, pictures, photographs, symbols, graphics, visual images, or sounds of any kind, or any combination thereof, promoting or soliciting the sale or the use of a product or service or providing other forms of textual, visual, and/or audible messages or information, but in no event shall it include any message or information that is required to be posted on any Product(s) by any federal, state, or local law, rule, or regulation or by this Agreement.

1.2. “Agreement” shall have the meaning set forth in the introductory paragraphs of this Agreement.

1.3. “Bicycle”, “Bike”, and “Electric Bicycle” shall mean each unit of Vendor’s proprietary electric bicycle that materially conforms to the electric bicycle description set forth in **Exhibit C**, and/or such other type of bicycle(s) as agreed to by the Parties.

1.4. “Bicycle Station” means a configuration of multiple bicycle docks in groupings of two (2) or more Bicycle docks.

1.5. “Bicycle Dock” or “Dock” means each unit of Contractor’s proprietary bicycle rack that materially conforms to the bicycle dock description set forth in **Exhibit C**, and/or such other type of bicycle rack(s) as agreed to by the Parties.

1.6. “Regional Bicycle Sharing Program” or “Bike Share” shall mean the regional bicycle sharing program implemented, managed, and operated by Vendor at the Site using the Goods.

1.7. “Host Agency” shall have the meaning set forth in the introductory paragraphs of this Agreement.

1.8. “Confidential Information” shall have the meaning set forth in Section 12, Paragraph 9 of this Agreement.

1.9. “Custom Mobile App Landing Page” shall mean a Site-specific User mobile app that provides information on and enables participation in the Regional Bicycle Sharing Program. The Mobile App Landing

Page is a part of and provides access to the User Platform. The Custom Mobile App Landing Page shall display correctly on all major mobile devices, and shall be available in English and in Spanish.

1.10. “Effective Date” shall have the meaning set forth in the introductory paragraphs of this Agreement.

1.11. “Fare Cards” shall have the meaning set forth in Section 3.3.3.

1.12. “Goods” shall mean Products and Services.

1.13. “Implementation Services” shall have the meaning set forth in Section 2.3.

1.14. “Initial Term” and “Term” shall have the meaning set forth in Section 7, Paragraph 1.

1.15. “Intellectual Property” shall have the meaning set forth in Section 12, Paragraph 8 of this Agreement.

1.16. “Launch Date” shall have the meaning set forth in Section 2.3.1.

1.17. “Lock” shall mean each unit of Vendor’s proprietary bicycle lock that materially conforms to the bicycle lock description set forth in **Exhibit C**, and/or such other type of bicycle lock(s) as agreed to by the Parties.

1.18. “Management Services” shall have the meaning set forth in Section 2.1.

1.19. “Marks” shall mean any and all logos, trade names, designs, symbols, trademarks, and/or service marks.

1.20. “Panel” means each unit of Contractor’s proprietary information panel that materially conforms to the panel description set forth in **Exhibit C**, and/or such other type of panel(s) as agreed to by the Parties.

1.21. “Participating Jurisdictions” shall have the meaning set forth in the introductory paragraphs of this Agreement.

1.22. “Products” shall mean Vendor’s proprietary Bicycles, Bicycle Racks, Locks, Kiosks, Docks, Panels, and related equipment, components, and accessories.

1.23. “Product Advertising” shall have the meaning set forth in Section 4.4.

1.24. “Program Advertising” shall have the meaning set forth in Section 4.4.

1.25. “Renewal Term” shall have the meaning set forth in Section 7, Paragraph 1.

1.26. “Service Level Agreements” shall mean the level of service related to the User Platform, described in **Exhibit F** hereto.

1.27. “Services” shall mean the Management Services and Implementation Services.

1.28. “Site” shall mean area(s) within the jurisdictional boundaries of the Santa Cruz region including the City of Santa Cruz, the County of Santa Cruz, the City of Capitola, the City of Watsonville, University of California Santa Cruz, and Cabrillo College.

1.29. “Station” shall mean an established collection of docks and bicycles.

1.30. “Subscribed User” shall mean any person who has registered as a member of the Bicycle Sharing Program. Subscribed Users shall be required to enter into agreements with Vendor providing terms and conditions for the rental of Bicycles, including the waiver of liability that includes a waiver as to the City.

1.31. “Subscribed User Data” shall mean data about the Subscribed Users and their use of the User Platform and the Bicycle Sharing Program.

1.32. “Subscribed User Fees” shall mean any fees paid by Subscribed Users for the rental, lease, or other temporary provision of the Bicycles via the Bicycle Sharing Program.

1.33. “Users” shall mean all User Platform visitors and Subscribed Users.

1.34. “User Platform” shall mean Vendor’s user-facing online bicycle rental web or mobile application platform that provides Subscribed Users access to the Bicycle Sharing Program.

1.35. “Vendor” shall have the meaning set forth in the introductory paragraph of this Agreement.

2. SCOPE OF WORK - DELIVERABLES

2.1. Products Provided for Use and Management Services. Pursuant to this Agreement, Vendor shall provide and install by the Launch Date for the City of Santa Cruz and UCSC a minimum number of Electric Bicycles and Bicycle Docks in each Participating Jurisdiction in Phase I consistent with the table below provided that each of the Participating Jurisdictions agrees to and maintains a contract for Bike Share services with Vendor. Vendor shall provide and install within one year of the Launch date for Watsonville, City of Capitola, Cabrillo College, and the County of Santa Cruz a minimum number of Electric Bicycles and Bicycle Docks in each Participating Jurisdiction in Phase I consistent with the table below provided that each of the Participating Jurisdictions agrees to and maintains a contract for Bike Share services with the Vendor. The Participating Jurisdictions will work in good faith to identify dock locations to be mutually agreed upon with Vendor. The Parties may agree, in writing, to temporarily implement fewer bikes and docks. Vendor shall propose areas where additional docks and bikes can supplement in order to meet the minimum. Product

minimums are subject to approval of encroachments permit or other local agreements for dock installation and Host Agency sponsorship agreements, as applicable.

Phase I Minimum Quantities

Jurisdiction	Minimum Quantity of Electric Bicycles	Stations	Individual Docks (2 Docks:1 Bike)
City of Santa Cruz	300		600
City of Capitola	50		100
Cabrillo College (and vicinity)	50		100
UCSC	160		320
Watsonville	25		50
Aptos	25		50
Soquel	25		50
Other Unincorporated (Live Oak, Pleasure Point)	25		50
Total	660		1,320

2.2. Expansion

BCycle may expand the services up to 2,000 Bicycles within the initial term of the Agreement.

2.3. Implementation Services.

Vendor shall provide services related to deploying the User Platform for the Site, delivering Products to the Site, performing community outreach and marketing, and assembling the Products at the Site (“Implementation Services”) to enable a successful Launch Date.

2.3.1 Project Schedule

Launch date for each Host Agency shall be no later than six months from the Effective Date or the date the required local permit(s) is issued by the Host Agency, whichever is later. Parties acknowledge launch date may be delayed for circumstances outside the control of the Vendor, but shall under no circumstances extend beyond nine months from the latest of those two dates.

Vendor shall propose a project schedule that includes all steps necessary to reach a launch date, and subsequent applicable milestones after launch in accordance with **Exhibit E**. These pre- launch activities include but are not limited to site planning, permitting, community outreach and engagement, education, and other applicable tasks.

2.3.2. Stations.

Prior to the Launch Date, Vendor will collaborate with Host Agency’s staff to agree upon Station locations. These may be amended from time to time at Vendor's discretion in consultation with the Host Agency.

2.3.3 Participating Jurisdiction Emergency Access to Bicycles

Vendor will provide the Participating Jurisdictions with codes or other means to move locked bikes in emergency situations. In addition, law enforcement and other public safety agency representatives will be provided with appropriate codes or key cards to be able to move bicycles in an emergency situation or when bicycles are blocking access and need to be moved immediately. Direct contact phone numbers and emails of the Vendor’s General Manager and local operations staff will also be provided to the Host Agency, and each law enforcement agency and public safety agency located within the Participating Jurisdictions.

2.4 Program Implementation

Vendor will meet with Host Agency staff and others as needed to gain an understanding of the context, current opportunities for connectivity, and potential partnerships prior to implementation.

Host Agency will provide staff that will be available throughout implementation and throughout the life of the project to fulfill Host Agency obligations under this Agreement and assist Vendor in ensuring the success of the system.

2.5 Review of Regional Bike Share System and Updates

2.5.1. Vendor Operations Review. Vendor shall develop recommendations that promote use of the Bike Share system, promote closer coordination with potential or existing partners, and reduce or eliminate any operating deficits. Any such recommendations will be circulated among the Host Agency and Participating Jurisdiction representatives.

2.5.2. Vendor will participate in regular meetings with Host Agency and Participating Jurisdiction representatives to give updates on the design of the regional Bike Share system and necessary modifications. Vendor to coordinate, participate in, and timely provide collateral materials for public agency meetings at the request of the Host Agency and Participating Jurisdictions, including City Council, Board of Supervisor meetings, and campus leadership meetings.

3. Business and Operations Standards:

3.1 Organizational Development. Vendor shall obtain and maintain a valid business license within each Participating Jurisdiction, as applicable. Please see **Exhibit I** for the Vendor's proposed organizational chart.

3.2. Location. Operations team and office/storage space are required to be geographically located within Santa Cruz County in order to be responsive to the operation needs of the system.

3.3. Registration and Payment

3.3.1. Provide and maintain in full operation a mobile application to register, submit credit card data, and execute a user agreement. After registration, members should be able to immediately access a bike. Walkup, Monthly, and Annual memberships shall be available.

3.3.2. Walk-Up Utilization. Allow one-time use of various durations by walk-up registration through mobile registration. Walk-up customers shall be able to register, submit credit card data, and execute a user agreement.

3.3.4 Access to Registration and Payment. Vendor shall work to provide access for users who are unbanked, and/or do not have a credit card and/or a smartphone.

3.3.5. Secure Financial Transactions. Complete secure financial transactions with data input by cell phone. Financial data must be held securely in a manner that complies with all applicable federal, state, and local privacy and data protection laws, rules, regulations, and directives, and is only accessible to authorized personnel. The Vendor shall develop a robust security policy. The Vendor shall ensure that its security policy is enforced, report any breaches to the Participating Jurisdictions immediately, and develop a corrective plan to prevent future breaches. The method for protecting financial data, user names, and addresses, must be Payment Card Industry (PCI) compliant.

3.4. Records.

In addition to Service Level Agreement reports, Vendor shall maintain additional business related, accounting and customer service-related records and make them available to the Participating Jurisdictions on appropriate notice for inspection and auditing.

3.5. Data Sharing.

The Vendor will make available to Participating Jurisdictions their website reports, maps, and data, regarding ridership, fee/membership structure, trips, and route data as defined in **Exhibit B**.

4. Costs and Revenues:

4.1. User Fees. Initial Vendor fees and vendor penalties, and the process to modify aforementioned rates, are included within the Fee Schedule in **Exhibit D**.

4.2. Capital and Operating Costs. All costs associated with the system, including but not limited to installation, maintenance, capital, operating, marketing, and staffing, shall be the sole responsibility of the Vendor. Participating Jurisdictions shall have no financial obligation associated with the Bike Share system. Notwithstanding the above, Participating Jurisdictions understand that Vendor may not be able to grant special requests for station and kiosk sites that would otherwise be economically infeasible without outside sponsorship funds.

4.3. Fees Paid to Jurisdictions. Participating Jurisdictions' fees for use of public property and revenue share per bike fee are included in the Fee Schedule (**Exhibit D**).

4.4. Branding, Advertising, Marketing, and Public Relations. Vendor will oversee branding, marketing, membership sales and public relations. Use of name, trademarks, or logos of the Participating Jurisdictions shall be subject to the terms and conditions and any applicable requirements for a license by Host Agency. Vendor shall have the right to provide commercial advertisement on the Bikes and equipment ("Product Advertisement"). In accordance with the following:

4.4.1 General. In order to support the operation of the bike share program, Vendor may solicit sponsors willing to provide financial sponsorship in exchange for signage on the bicycle-sharing stations and/or the bicycles ("Sponsor Signs"). The content of the Sponsor Signs, bicycle signs, and zoning lot signs are subject to the sponsorship and advertising guidelines in this Section 4 ("Guidelines"). No messages other than those of selected under these Guidelines are permitted on bicycle-sharing stations and/or the bicycles, and Vendor may remove, in its sole discretion, any messages posted in or on program facilities, equipment and bicycles that are not pre-approved by Vendor in accordance with these Guidelines. In order to realize the maximum benefit from the sale of sponsorship space, the sponsorship program must be managed in a manner that will procure as much revenue as practicable, while ensuring that the advertising is of a type that: (1) does not discourage the use of the

Bike Share system; (2) does not diminish the Host Agency's reputation in the communities it serves or the good will of its constituents; and (3) is consistent with the principal purposes of providing safe and efficient bike share operations.

4.4.2 Compliance/Removal of Nonconforming Sponsor or Program Signs. Vendor is solely responsible for the selection of any sponsors and for ensuring that all Sponsor Signs and signs on bicycles (collectively "Program Signs") comply with these Guidelines. Vendor shall forward to the Host Agency for permit and approval any proposed Program Signs or Sponsor Signs. Vendor will promptly remove any Program Sign or Sponsor Sign that is in violation of these Guidelines upon notice by a Participating Jurisdiction.

4.4.3 Sign Criteria. All Sponsor and Program Signs shall comply with the following guidelines and restrictions:

Sponsors. Sponsors may not include the following:

- Any manufacturer, retailer, or distributor of any alcoholic beverage, including but not limited to beer, liquor, or wine stores, distributors, or manufacturers.
- Taverns, which include any place in which fermented malt beverages are sold for consumption upon said premises, except for those whose sale of alcohol beverages accounts for 50% or less of the establishment's gross receipts.
- Adult-only orientated businesses or services.
- Tobacco companies or merchants whose sale of tobacco or tobacco related products make up a significant part of its business.
- Marijuana/cannabis companies or merchants whose sale of marijuana or marijuana related products make up a significant part of its business.
- Wagering related businesses, such as casinos or on-line gambling sites.
- Firearm manufacturers or merchants whose sale of firearms or firearm related products make up 50% or more of its gross income.
- Any entity whose logo and/or business name includes any reference to the above activities for which sponsorship is not available, or any of the prohibited copy listed below.
- Any entity who would be otherwise prohibited from sponsorship in accordance with a Participating Jurisdiction's policy or code.

Prohibited Copy. Sign copy may not include the following:

- Copy that is illegal, obscene, libelous or fraudulent, or that refers to any of the above activities for which sponsorship is not available.
- Content promoting firearms.
- Political lobbying or messages of any kind. Political lobbying or messages may include, but are not limited to:
 - i. Any advertising that supports or opposes the election of any candidate or group of candidates for election to any federal, State, or local government office.

- ii. Any advertising that supports or opposes any referendum conducted by the federal or State government, or by any local government, such as referenda on constitutional amendments, on bond issues, or on local legislation.
 - iii. Any advertising that features any person whose prominence is based wholly or in part upon his or her past or present activity in political affairs, or that represents or implies any such person's approval or endorsement of the subject matter of advertising.
- Any copy or content that would be otherwise prohibited in accordance with a Participating Jurisdiction's policy.
 - Religious messaging of any kind. Religious messaging includes, but is not limited to, any advertisements that contain any direct or indirect reference to religion, or to any religion, or to any deity or deities, or which includes the existence, nonexistence or other characteristic of any deity or deities, or to any religious creed, denomination, belief, tenet, cause or issue relating to (including opposing or questioning) any religion. This prohibition shall include the depiction of text, symbols, or images commonly associated with any religion or with any deity or deities, or any religious creed, denomination, belief, tenet, cause of issue relating to (including opposing or questioning any religion).
 - Any message that, in the opinion of the Host Agency, is disruptive, detrimental or adverse to the Bikeshare program specifically or the Host Agency's interests in general, in the Host Agency's discretion.

4.4.4 Guideline Amendments. During the term of the Agreement, Host Agency may find it necessary to amend these Guidelines. If Host Agency finds that an amendment to these Guidelines is necessary, Host Agency may unilaterally amend these guidelines upon written notice to Vendor, however the Host Agency shall discuss said amendments with Vendor prior to providing this notice. Said amendments shall be effective thirty (30) days after said notice is provided to Vendor.

4.5. Other Revenues. Vendor shall have all title, right, and interest to any other sources of revenue that arise in relation to this Agreement and the provision of Products and Services hereunder, including but not limited to corporate membership fees and any other revenues generated for or from the Regional Bicycle Sharing Program, that are not specified in Section 4.1 through 4.4 above.

5. System Maintenance and Operations Standards:

Vendor to comply with the standards outlined in the Service Level Agreements Table provided in **Exhibit F**. Any modifications of the SLAs in **Exhibit F** require approval from the Host Agency and Participating Jurisdictions representatives.

5.1. Maintenance and Repair. Maintenance and repair responsibilities apply to all hardware and software components of the Bike Share system. The Vendor will be responsible for developing and implementing a regular inspection, maintenance and repair schedule that keeps the System in continuous compliance with the agreed upon Service Level Agreements Table outlined in Exhibit F. System maintenance shall include preventive

maintenance, inspection and prompt repair or replacement of all System. It will also include inspecting, cleaning and removing graffiti from Stations on a timely basis, as well as removal of debris in and around the Stations.

5.2. Reporting Key Performance Indicators. Vendor shall submit quarterly reports to the Host Agency and Participating Jurisdictions representatives that track Service Level Agreements Table outlined in **Exhibits B and F**. This will include such elements as number of trips/month, average utilization per bike per day, estimated average trip distance, estimated monthly system mileage, number of members and unique active users, estimated carbon savings, accident data, and other similar tracking metrics. Data on which estimates are based shall be made available to Participating Jurisdictions upon request. Participating Jurisdictions will also have access to a Data Dashboard of anonymized system data.

Vendor will provide other periodic reports for external and internal audiences. These reports shall include at a minimum quarterly management reports for the Participating Jurisdictions that monitor the Service Level Agreements. An annual report available to Host Agencies stakeholders is also required. See the Service Level Agreements Table provided in **Exhibit F**. Vendor understands that Host Agencies may share annual report with the public and interested stakeholders.

5.3. User Surveys. Vendor shall collect customer email addresses and/or phone number as part of the registration process, and unless prohibited by law or unless the customer has opted out of such communications, shall send at minimum one electronic survey, with approval from the Host Agency and other Participating Jurisdictions (as applicable), per year to Bike Share users, that covers the user's motivation for using bike share, the user's experience using the system, the user's interest in new locations, and new system offerings, demographics, and more.

5.4. Open Data. The Vendor shall provide General Bikeshare Feed Specification data that will allow third party developers to provide applications to assist users in finding bicycles, and stations, and comparing travel and usage information consistent with reports from other US systems. This data shall be anonymized.

5.5. Customer Service. The Vendor shall provide responsive and customer-friendly services that encourage repeat use including timely acknowledgement of complaints within 24 hours. The Vendor will be responsible for creating and managing excellent customer service standards and procedures. All system structures shall contain a conspicuously posted telephone number and web address/email address to the Vendor's customer service operations to which the public may direct complaints and comments, and instructions for filing a complaint. This information shall also be provided in braille on all bicycles. This information shall also be provided in braille on all bicycles. The Vendor shall provide a timely response to any such complaints within the timeframes outlined in the Service Level Agreements Table in **Exhibit F**. The Vendor shall provide a shared database in which Jurisdictions can communicate complaints from the public and from each jurisdiction, and in which the Vendor can report the resolution of such complaints.

5.6. System Balancing. Monitor the location of each bicycle and, if applicable, the status of each station and dock. Continuously and predictably redistribute bicycles so bicycles are consistently available throughout the regional service area. System Rebalancing shall comply with Service Level Agreements Table in **Exhibit F** that relate to consistent availability of bikes throughout the service area.

5.7. Bike Parking. Vendor agrees to provide a fully docked system with electric bikes that come with a cable lock for intra-trip layover stops only. BCycle reserves the right to remove cable locks if theft due to cable locks exceeds five bikes in a 90 day period. Vendor will message to all Participating Jurisdictions the requirements for layover bike parking. Illegally parked bikes shall be the responsibility of the Vendor. Complaints received for illegally parked bikes shall be responded to within the timelines outlined within Service Level Agreements Table in **Exhibit F**.

5.8. Real-time Communication. Vendor shall provide a system to track docked bicycles and, if applicable, station and dock status. Vendor shall populate an interactive map with location and status of bicycles throughout the county service delivery area along with optional address and directions. The Vendor shall use the General Bike Share Feed Specification (GBFS), a standardized data feed for Bike Share system availability. Vendor shall provide iOS and Android Apps with real-time map updates to allow users to locate stations and status of bicycles.

5.9. Accessible Website and Mobile App Design. Vendor shall design, maintain, and host a Bike Share mobile app that promotes the program and allows users to register, submit credit card data, in a secure manner, and execute a user agreement. Vendor shall provide and display web pages correctly on all major web browsers and mobile devices/formats. Vendor shall maintain a bike share website that complies with California and federal disabilities laws and regulations; conforms to the accessibility requirements of WCAG 2.0AA; and agrees to promptly respond to and resolve any complaint regarding accessibility of its website and mobile applications (i.e., BCycle's app).

5.10. Theft and Vandalism. Vendor shall manage issues dealing with theft and vandalism and applicable user fees. Host Agencies agree to work in good faith with Vendor to involve local law enforcement when appropriate to assist in protection and recovery of Vendor property.

6 Safety and Education: The Vendor shall commit to ensuring the safety of its products, its riders, and the Participating Jurisdictions. This approach includes product safety, operational safety, and user safety.

6.1 *Product safety*: All BCycle bike product lines shall meet or exceed all CPSC, ISO and EN bicycle standards. The proposed equipment will comply with these existing standards upon contract execution. The Vendor shall provide safety test reports of the goods and equipment performed by an ISO/IEC 17025 independent third-party accredited laboratory conducting consumer product safety and compliance testing.

The bikes shall feature always-on front and rear lights to ensure the rider can both see and be seen whenever they ride. All bikes shall be inspected and maintained by professional technicians on a regular maintenance schedule, and all maintenance is logged to ensure ongoing product safety.

6.2 *User safety*: Vendor user safety efforts shall be focused on user education. User safety education is communicated through physical decals on the equipment, written and visual safety instructions in the mobile app and in-person safety instruction at community events or through local partner organizations. Additionally, Vendor shall require all users to accept a user agreement that outlines safe riding practices to access the Vendor system. The Vendor's user agreement shall explicitly require users of Vendor's service shall be 18 years of age or older. Further, Vendor shall prominently display on program bicycles, in its mobile application, and on dock stations that only one person is allowed to ride a bicycle at a given time.

6.3. *Helmets*. Vendor to reinforce helmet use. Vendor to advocate for and endorse the use of helmets when riding through stations and on-bike messaging on the safety and proper use of a bicycle helmet. Vendor is encouraged to offer incentives for Users to wear helmets, offer free helmets, and/or to offer discounted helmets.

6.4. *Education*. In consultation with Host Agency, Vendor shall independently or in cooperation with a local organization or bike shop to provide unique education and outreach opportunities meeting the needs of local ridership. Vendor will provide general bike safety and rider etiquette information to users through its various social, mainstream media and direct communication channels, including but not limited to information available at program docks. Vendor shall provide a minimum of six (6) free educational events per year on different dates, and at least one in each of the Participating Jurisdictions.

6.5. *Speed Governance*.

BCycle electric bike is a 3-speed, Class 1 pedal-assist bike powered by a Bosch Active-line mid-drive motor. The Bosch on-board computer is programmed to operate as a pedal-assist e-bike, with the assist limited to a maximum of at 17 MPH.

6.6. *Demographics*.

Current State of California regulations require that one must be 18 years of age to rent a bicycle. Vendor must communicate this requirement primarily through its user agreement, which each rider must complete. Vendor may also explore communicating the requirement through other channels if needed, including on bikes or docks, on the program website, and through the mobile app and on signage at each station.

7. Access to Subscribed User Data by the Host Agency. Vendor grants to Host Agency, on the terms and conditions set forth herein and in Exhibit B, a perpetual, non-transferable, non-sublicensable, non-exclusive, limited right to access and use the Subscribed User Data for any transit or urban planning purpose. The Subscribed User Data is considered part of the User Platform, and all terms and conditions and privacy policies applicable to the User Platform apply to the Subscribed User Data. Host Agency represents and warrants that it shall not use, or permit others to use, the Subscribed User Data or access to the Subscribed User Data in ways that violate any applicable local, state, and federal laws, and any applicable foreign jurisdictions.

Exhibit B: Data Reports From Vendor



Sample Reports

Category of data	Specific metrics	Availability	Notes
Overall Micromobility Utilization	Total trips	Quarterly	Available in Admin website data visualization and data export
	Total unique users	Quarterly	Available through Admin trip reports
Safety		Upon request	Accidents are documented by program staff
Equity Impact		Quarterly	Operators have options for providing equitable access to bike share. Whether they provide special access passes at no cost or discounts on memberships, they can report on equity program utilization.
Characteristics of Riders		Annually	Users have the option to provide demographic data and other rider characteristics in annual user surveys.
Micromobility Usage	Real time device location	n/a	Bikes must be returned to docks at stations. Location is inferred from station location when bikes are docked. Bikes are not tracked when checked out.
	Frequency and locations of trip origins and destinations	Quarterly	Available in Admin website data visualization and data export
	Frequency of use (comparatively between devices)	Quarterly	Available in Admin website data visualization and data export
	Trips by time of day	Quarterly	Available in Admin website data visualization and data export
	Trips by day of the week	Quarterly	Available in Admin website data visualization and data export
	Impact of precipitation and temperature (weather)		
	Trips per device per day	Quarterly	Available through Admin trip reports
	Average trip length/duration	Quarterly	Available in Admin website data visualization and data export
Compliance by Vendors	Responsiveness to agency requests	Upon request	Agency requests are documented and tracked by program staff
	Device availability (rebalancing/ deployment obligations)	Quarterly	Available in Admin website data export
Number of and response times to complaints	Improperly parked devices	Upon request	Users are required to return bikes to docks to effectively end the ride and accrue usage fees if they do not
	Abandoned devices	Upon request	Users are required to return bikes to docks to effectively end the ride and accrue usage fees if they do not
	Malfunctioning devices	Upon request	Customer service team will log complaints and Operations team will log tickets when complaints are addressed and resolved
On-street / Sidewalk / Multi-use path micromobility observations		n/a	Users are required to return bikes to docks at stations. Parking on streets and on sidewalks without a station is not permitted.
Outreach and Marketing	Collateral distributed	Upon request	Materials available at in-person events if they continue
	Customer touch points	Upon request	Messaging at stations and digital communications
	Online engagement	Upon request	Provide analytics for all platforms, social, Constant Contact and other
	Language action plan	Upon request	Provide Spanish translations where applicable

EXHIBIT B CONTINUED: DATA REPORTING LIST

1. Quantities of trips that start and end in each Participating Jurisdiction, including the date/timestamp.
2. Data on aggregate revenue for trips beginning and ending in a given jurisdiction and/or special pricing program.
3. Data showing:
 - Bicycle availability (monthly)
 - Trip count (monthly)- including summary data of trip start/end by jurisdiction
 - Trips per bike per day
 - Estimated average trip distance (mi.)
 - Estimated total mileage
 - Bicycle maintenance and inspection
 - Website/Mobile App in service
 - Number of subscriptions on special pricing programs (i.e, events, low income, subsidized rates)
 - Monthly and annual subscriptions

EXHIBIT C: VENDOR BICYCLES AND INFRASTRUCTURE

BCYCLE ELECTRIC BIKE COMPONENTS AND SPECIFICATIONS



FRAMESET	
Size	One size fits most
Color	White
Material	Oversized alpha aluminum
Fork	Proprietary aluminum unicrown fork
COMPONENTS	
Handlebar and Stem	Proprietary aluminum bar and basket combo with Bontrager stem
Seatpost	Proprietary theft resistant post with easy to use four-finger clamp
Saddle	Seamless Bontrager all-weather saddle with integrated reflector and handle

Pedals	Anti-slip platform
Lights	Proprietary 3 watt 10 lux LED front and rear lights StVZO Compliant with 5-minute run time after stopping
Bell	Tamper resistant twist grip
Grips	Proprietary weather and UV resistant silicon
Fenders	Full coverage polycarbonate
Kickstand	Chainstay mounted, 3 bolt kickstand
ELECTRIC ASSIST	
Motor	Bosch Activeline Motor
Display	Bosch Purion Control/Display
Power	Swappable 400 Wh Battery
DRIVETRAIN	
Shifters	Shimano Nexus 3-speed twist shifter
Rear Derailleur	Shimano Nexus 3-speed internal gear hub
Brakes	Shimano Nexus BR-C6000
Brake Levers	Tektro Alloy 2-finger
Cassette	19 Tooth stock
Chain	1/2"x1/8", heavy duty
Crankset	38 tooth crank, 170mm crank arm
WHEELS	
Rims	26"
Front Hub	Shimano Nexus front Dynamo hub
Rear Hub	Shimano Nexus 3-speed internal gear hub

Spokes	Stainless steel
Tires	Puncture resistant with reflective sidewalls
Panels	Ad space on five individual panels: Front basket in 3 segments: right, left, and front (visible from inside basket) Rear skirt guards in 2 segments: right and left
MISC	Meets or exceeds CPSC, ISO, EN standards for safety Front basket rated to 20 lbs of cargo Rear rack that accepts after-market panniers Proprietary and theft resistant fasteners
SHROUD	Optional
Secondary Cable Lock	Cable lock

Note: Specifications and components subject to change.

STATION PRODUCT DESCRIPTION(S)

BCycle 3.0 Dock



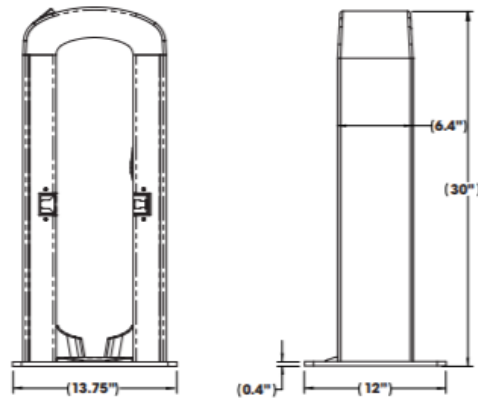
Dimensions	13.75” x 12” x 30.25”
Color	Black
Integrated Base and Leg Material	Aluminum
Exposed Fasteners	Stainless Steel Security Fasteners
Top Cap Material	Acrylonitrile styrene acrylate (ASA)
Manual latch release	Tubular key cam lock
HMI	Piezo switch with LED
Striker & Tire Guides / Wheel Chock	Glass filled nylon 6
INTERNAL COMPONENTS	
Latches	Outdoor-rated Stainless Steel
Battery	Lithium Ion – Rechargeable
RFID Reader (Bike)	LF
RFID Reader	LF/HF

(User) PCB Main Board	Custom modular board design
Antenna	LTE antenna
Communication protocol	Cellular CAT M1/NB

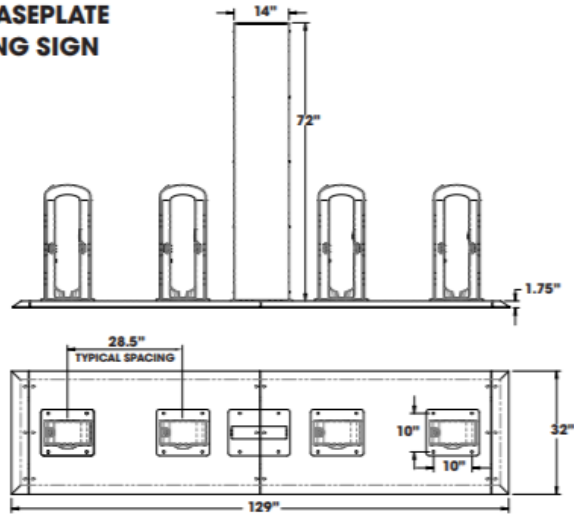
AFTERMARKET ADD-ONS

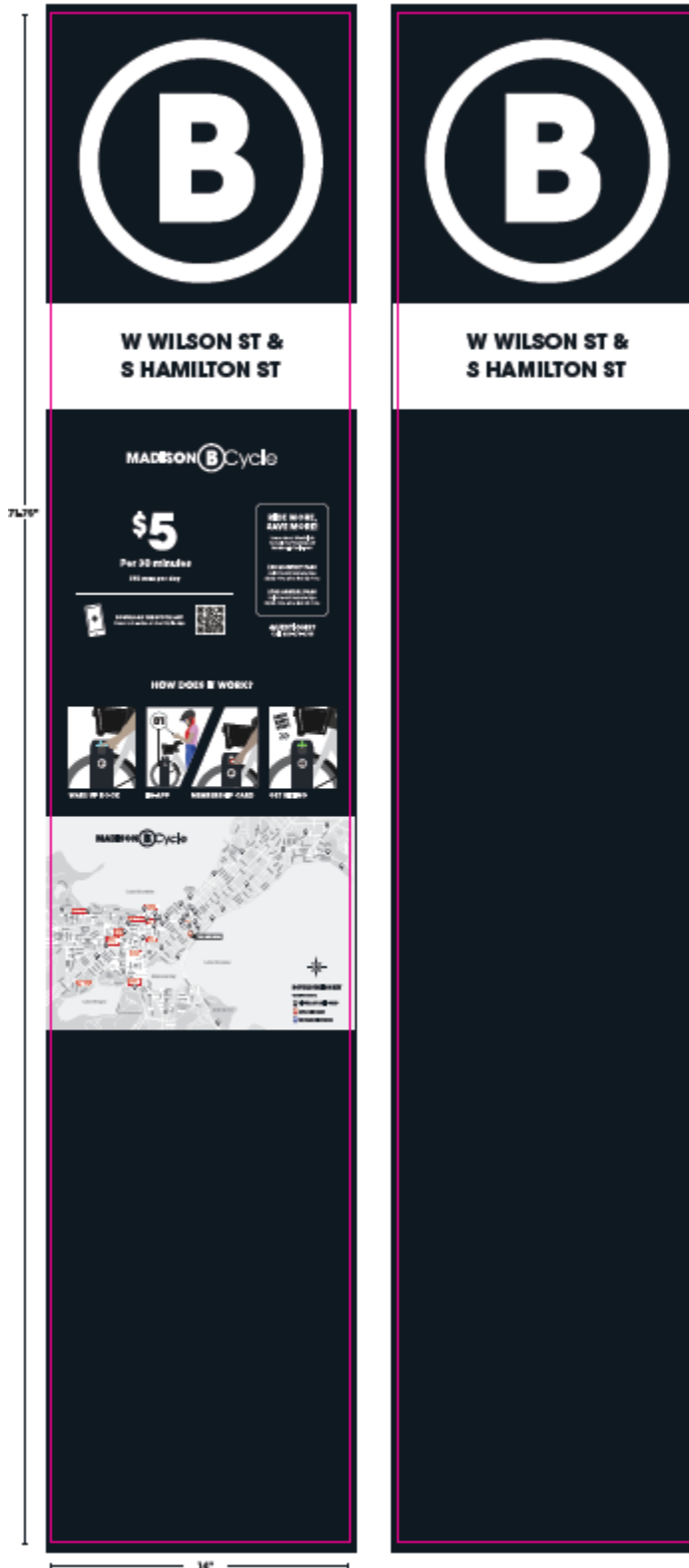
Static Wayfinding Non-Bolted Baseplate	Aluminum / Dual sided / Vinyl graphic application / 11" x 72"
BBT Module	Aluminum plates / steel ballast / 4 bike single-sided. 6 bike dual-sided
	Modular electronics, plugs directly into PCB board

3.0 DIMENSIONS



**OPTIONAL BASEPLATE
& WAYFINDING SIGN**







FEATURES

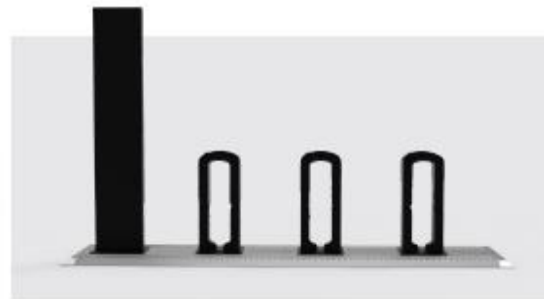
Designed to allow installation of 3.0 docks without the need for drilling into the substrate.

Base plates can be bolted to the substrate if desired, for fewer drilled holes per installation.

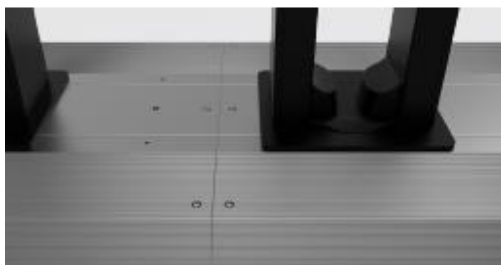


Modular configuration allows flexibility in station size.

Each set of plates supports 4 docks (single-sided), or 6 docks (double-sided).



Supports the 3.0 Wayfinding / AD Panel

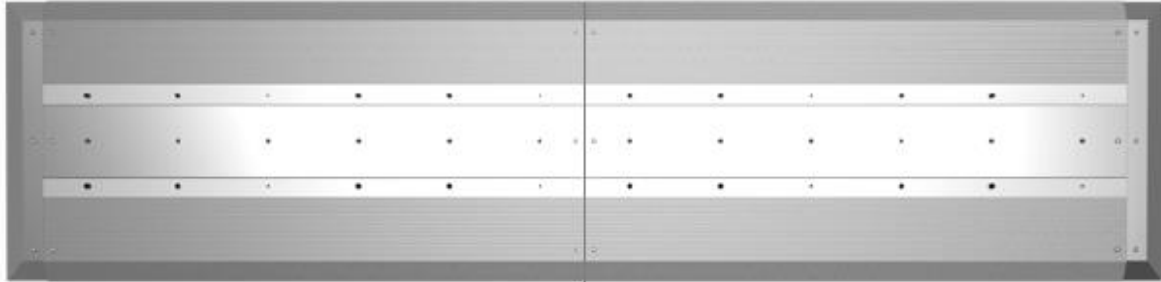


Manageable section sizes for easier handling at installation



Optional steel ballasts (enclosed in aluminum channels) give you the option to install baseplate without anchors.

3.0 BASE PLATE SPEC SHEET 



BASE PLATE

Material	Aluminum
Finish	Anodized
Fasteners	Stainless steel
Opt'l Ballast Weight (for non-bolted)	Steel, enclosed in aluminum channels
Configurations	Single-sided and Dual-sided

DIMENSIONS

Base Plate	31.4" (W) X 60" (L) x 1.75" (H)
Endcap	31.4" (W) X 4.5" (L)
Assembled Dimensions	31.4" (W) X 129" (L) X 1.75" (H)
Ballast	6" (W) x 11" (L) x 1" (H)
Weight of Ballast	19 lbs* per ballast. Each ballast kit contains 10 ballasts
Weight of Baseplate	77 lbs

SUPPORTED EQUIPMENT

3.0 Dock	(4) Single-sided –or– (6) Dual-sided
3.0 Wayfinding / AD panel	Takes the place of one dock, can be mounted parallel or perpendicular
Ballast Weights	Stabilizes the station without bolting to the ground substrate

STATION SIZING

A minimum of 2 plates is required to meet weight requirements.



Number of baseplates	Exact length required for baseplates (each is 60" and requires 4.5" endcaps at each end. Totalling 69")	Number of docks if single-sided (Requires 5'8" of depth space, plus a 4' back-up zone or 9'8" total)	Number of docks if double-sided (Requires 8'6" of depth space, plus two 4' back-up zones or 16'6" total)
2	129"	4	6
3	189"	6	9
4	249"	8	12
5	309"	10	15
6	369"	12	18
7	429"	14	21
8	489"	16	24
9	549"	18	27
10	609"	20	30

Note: Station specifications subject to change.

EXHIBIT D: FEE SCHEDULE

User Fees

1. Initial rates will be set as listed:
 - a. Walk Up Pass: \$7 per each 30 minutes; daily maximum is \$75
 - b. Monthly: \$30 for unlimited 30-minute trips, extra 30 minutes \$3 each
 - c. Annual: \$150 for unlimited 30-minute trips, extra 30 minutes \$3 each
 - d. Low Income: None currently proposed but the vendor is encouraged to support discounted accesses through bulk-member programs.
 - e. Students: None proposed but the vendor is encouraged to support discounted access through bulk-member programs.

MONTHLY	ANNUAL	WALK-UP PASS
\$30/month	\$150/year	\$7/30 minutes
Unlimited 30-min trips	Unlimited 30-min trips	Each 30 mins. is \$7
Extra 30 mins. \$3 ea.	Extra 30 mins. \$3 ea.	Daily max \$75

Walk-Up Fees, Monthly Fees, and Annual Fees to be charged by Vendor will be the same for all Participating Jurisdictions. Vendor may negotiate with Host Agency unique alternative or discounted rates for discrete groups of people (included, but not limited to, students and persons of low-income) or Special Event pricing for limited duration events.

2. User Fees shall not be modified for the first two years of the Agreement unless as described below in Paragraphs 4 and 5.
3. After Year Two, allowed increase for all rates of up to 10% per contract year in years 3-5 only, or CPI + 3%, whichever is less. If BCycle chooses not to increase rates in any contract years 3-5, **such rate increase may not be applied to any future contract years, nor may it be applied retroactively to the first two years of the Agreement.** CPI will be determined by the Bureau of Labor Statistics [CPI Summary Report for the San Francisco-Oakland-Hayward, CA](#) that is released in January of the following year.
4. Over the term of the Agreement, if annual bike fleet theft/vandalism (vandalism defined as rendering bikes inoperable) rate exceeds 10% of overall fleet (county wide), rates may increase beyond maximum identified in (1) by the amount needed to offset costs of fleet replacement beyond 10%. BCycle must

submit evidence of theft/vandalism to the Participating Jurisdictions for administrative approval of price change based on data provided.

5. Over the term of the Agreement, Vendor may request and negotiate for a further rate adjustment due to:

- a. Unexpected market conditions or forces such as local sales tax increases, unexpected market conditions, or increased tariffs for products .
- b. Proposed introduction of new products or features.

In support of a proposed rate adjustment, BCycle must submit evidence of costs associated with items listed in a and b above, which evidence may include data regarding actual program revenue compared with revenue projections, and assumed profits prior to program rollout, provided that all such evidence shall be treated as confidential and will not be made publicly available, except as may be required by applicable law. Negotiations shall consider data provided for associated costs and profit/loss statements for overall Regional Bikeshare Program.

6. Revenue Share for Contract Years 3-5:

- a. Vendor agrees to pay each Host Agency jurisdiction \$25 per dock for each dock assigned to the respective jurisdiction, if Vendor achieves a net profit margin of 10% or greater in the prior year. Vendor shall pay UCSC the \$25 per dock for each dock assigned to UCSC, regardless of whether Vendor's net profit margin is 10% or greater, given UCSC's waiver of a site license fee.

Bicycle Licensing Fees:

Individual Bicycle Licensing fees to track bicycle theft will not be charged by the Host Agency.

User Penalty Fee schedule:

\$2,750 or documented cost for replacement of bike

Fees For Use of Public Property

[to be inserted by Individual Jurisdiction]

- 1. Host Agency agrees to no additional fees or fee increases in first 2 years beyond the initial encroachment, planning, and/or University site license fee.

EXHIBIT E: WORK SCHEDULE

Week from Contract Execution	Tasks	Phase
Week 1	Begin work on selecting station sites	Implementation - Siting
Week 2	Post job for General Manager	Operations - Hiring
Week 3	Project Kickoff	Implementation
Week 3	Begin search for pre-launch office	Operations - Office/Warehouse
Week 3	Get updated quote for system insurance	Operations - Admin
Week 4	Provide list of preliminary station locations	Implementation - Siting
Week 4	Send site information on 5 locations to city	Implementation - Siting
Week 4	Update financials – budget	Operations - Admin
Week 4	Complete hiring schedule	Operations - Hiring
Week 5	Provide hit list for staging warehouse	Operations - Office/Warehouse
Week 5	Closing date for GM Applications	Operations - Hiring
Week 6	Schedule final interviews	Operations - Hiring
Week 6	Secure permanent office/shop/warehouse facility	Operations - Office/Warehouse
Week 7	Finalize system branding/logos	Implementation - Admin
Week 7	Post job for Operations Manager	Operations - Hiring
Week 7	Complete search for pre-launch office	Operations - Office/Warehouse
Week 8	Start date for GM	Operations - Hiring
Week 8	Start pre-launch office lease	Operations - Office/Warehouse
Week 9	Secure required insurance certificates	Operations - Admin
Week 9	Complete promotion/marketing plan	Operations - Marketing/Community Engagement

Week 10	Complete in-city site visits	Implementation - Siting
Week 10	Finalize design of RFIDs/FOBs	Implementation - Admin
Week 10	Hire Operations Manager	Operations - Hiring
Week 10	Finalize customer service plan (phone number, hours, etc.)	Operations - Customer Service
Week 11	Submit station permits to City	Implementation - Siting
Week 12	Finalize membership types and pricing	Operations – Admin
Week 13	Purchase/Lease service vehicles	Operations - Technical
Week 13	Start office/shop/warehouse facility lease	Operations - Office/Warehouse
Week 13	Secure staging warehouse facility and dumpsters	Operations - Office/Warehouse
Week 14	Secure approval on all station permits	Implementation - Siting
Week 14	Deliver Admin website	Implementation - Admin
Week 14	Deliver Admin website training	Implementation - Training
Week 14	Complete Stripe integration	Implementation - Admin
Week 15	Finalize all station artwork	Implementation - Product
Week 15	Finalize all bike artwork and print	Operations - Admin
Week 16	Complete office/shop/warehouse facility build-out	Operations - Office/Warehouse
Week 16	Finalize website content	Implementation - Admin
Week 16	Finalize user agreement	Implementation - Admin
Week 16	Finalize notifications on the Admin site	Implementation - Admin
Week 16	Finalize membership types and pricing in Admin Site	Implementation - Admin
Week 16	Start set-up in staging warehouse	Operations - Office/Warehouse
Week 16	Ship bikes to warehouse	Implementation - Product
Week 17	Finalize station configurations	Implementation - Siting

Week 17	Mobile App Live	Implementation - Admin
Week 17	Bikes arrive in warehouse	Implementation - Product
Week 17	Bike build training #1 - out of box	Implementation - Training
Week 18	Complete office/shop build-out and branding of service vehicles	Operations - Office/Warehouse
Week 18	Activate station cellular modem	Implementation - Admin
Week 18	Admin site training - customer service	Implementation - Training
Week 18	Admin site training - technicians	Implementation - Training
Week 19	Ship stations to warehouse	Implementation - Product
Week 19	Begin membership drives	Operations - Marketing/Community Engagement
Week 19	Complete station site prep	Implementation - Siting
Week 20	Stations arrive in warehouse	Implementation - Product
Week 20	Station/Bike technician training (operations & maintenance) - 3 days	Implementation - Training
Week 21	Finalize kiosk screen text	Implementation - Admin
Week 22	Begin station installations	Implementation - Product
Week 23	Complete station installations	Implementation - Product
Week 24	Tentative launch event	

EXHIBIT F: SERVICE LEVEL AGREEMENTS

SERVICE LEVEL AGREEMENT

PERFORMANCE INDICATOR	DESCRIPTION	MEASUREMENT TOOL	SERVICE LEVEL REQUIREMENT
SYSTEM AVAILABILITY: BIKES	PERCENTAGE OF BIKES IN SERVICE AND AVAILABLE	BCYCLE’S WEB-BASED ADMIN DATABASE	80% OF BIKES IN SERVICE ON AVERAGE PER MONTH
SYSTEM AVAILABILITY: STATION	PERCENTAGE OF STATIONS IN SERVICE AND AVAILABLE	BCYCLE’S WEB-BASED ADMIN DATABASE	95% OF STATIONS IN SERVICE ON AVERAGE PER MONTH
UNSCHEDULED REPAIRS: BIKES	TIME TO ADDRESS BICYCLE TECHNICAL ISSUE UPON NOTIFICATION	CUSTOMER SERVICE LOG AND BCYCLE’S WEB-BASED ADMIN DATABASE	ALL BIKES WITH REPORTED TECHNICAL ISSUES REPAIRED OR REMOVED FROM SERVICE WITHIN 24 HOURS OF REPORT.
UNSCHEDULED REPAIRS: DOCKS	TIME TO RESPOND TO DEFICIENT, DAMAGED, OR UNCLEAN STATION COMPONENTS UPON NOTIFICATION	CUSTOMER SERVICE LOG AND BCYCLE’S WEB-BASED ADMIN DATABASE	90% OF STATIONS WITH REPORTED ISSUES RESOLVED WITHIN 12 HOURS OF REPORT. ALL STATIONS WITH REPORTED TECHNICAL ISSUES THAT CANNOT BE FIXED ON SITE, DISABLED FROM SERVICE WITHIN 24 HOURS OF REPORT.

BICYCLE REDISTRIBUTION	DISTRIBUTE BIKES TO ENSURE SUFFICIENT BICYCLES ARE AVAILABLE THROUGHOUT THE REGION.	BCYCLE’S WEB BASED ADMIN DATABASE	ON A DAILY BASIS, 70% OF NUMBER OF BIKES DESIGNATED FOR A PARTICIPATING JURISDICTION ARE LOCATED WITHIN THE JURISDICTION BOUNDARY.
MOBILE APP IN SERVICE	PERCENT OF TIME THE MOBILE APP IS IN SERVICE AND AVAILABLE.	TIME WITHIN A MONTH	99% OF THE TOTAL TIME PER MONTH; EXCLUSIVE OF THE EXCLUDED DOWNTIME.
CUSTOMER SERVICE AVAILABILITY	VENDOR WILL MAINTAIN A FREE CUSTOMER CONTACT CENTER AND PROVIDE LIVE RESPONSE DAILY DURING BUSINESS HOURS; WITH 24-7 AFTER- HOURS MESSAGING SERVICES.	TIME	100% [EXCLUDING LIVE RESPONSE ON THANKSGIVING, FRIDAY AFTER THANKSGIVING, CHRISTMAS EVE, CHRISTMAS DAY, NEW YEAR’S DAY]
CUSTOMER SERVICE RESPONSE	RESPONSE TIME BETWEEN CUSTOMER INQUIRY OR COMPLAINT AND RESOLUTION PLAN.	TIME	24 HOURS

<p>LOCAL STAFF AVAILABILITY</p>	<p>MINIMUM HOURS OF LOCAL STAFF OPERATION AVAILABILITY</p>	<p>SCHEDULE</p>	<p>MONDAY – FRIDAY 7AM – 6PM SATURDAY-SUNDAY (AND FEDERAL HOLIDAYS) 9AM – 5PM *HOURS MAY BE ADJUSTED BASED ON SEASONAL NEEDS AND RIDERSHIP PATTERNS</p>
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1. REDISTRIBUTION. VENDOR WILL WORK WITH EACH PARTICIPATING JURISDICTION TO IDENTIFY ZONES AND HIGH PRIORITY AREAS. DISTRIBUTION WILL BE TIMED TO INCREASE THE PROBABILITY THAT EACH ZONE AND HIGH PRIORITY AREAS ARE MANAGED TO HAVE SUFFICIENT BICYCLES AND DOCKS AVAILABLE. VENDOR WILL CONTINUOUSLY MONITOR RIDERSHIP THROUGHOUT THE REGIONAL SYSTEM AND TAKE ACTIONS NECESSARY TO BALANCE THE FLEET TO MEET DEMAND AND ENSURE SERVICE TO UNDERSERVED AREAS WITHIN THE REGION. VENDOR SHALL PROVIDE INFORMATION TO THE PARTICIPATING JURISDICTIONS, AS REQUESTED, REGARDING THE EFFICACY OF VENDOR’S REDISTRIBUTION PRACTICES. VENDOR AGREES TO EXAMINE AND RESPOND TO THE JURISDICTION’S CONCERNS OR COMPLAINTS REGARDING FLEET DISTRIBUTION AND TAKE CORRECTIVE ACTION WHENEVER NECESSARY.

2 THE FOLLOWING CONSTITUTES “EXCLUDED DOWNTIME IS SCHEDULED MAINTENANCE AND DOWNTIME, AS WELL AS UNPLANNED EMERGENCY MAINTENANCE DOWNTIME RESULTING FROM FORCE MAJEURE EVENTS, INCLUDING ANY BCYCLE WIRELESS CARRIER CONNECTIVITY FAILURES. SCHEDULED MAINTENANCE WINDOWS ARE SCHEDULED PERIODS WHERE THE APPLICABLE SERVICES MAY NOT BE AVAILABLE IN ORDER FOR VENDOR TO CONTINUE TO BRING THE BEST POSSIBLE SERVICE, FEATURES, AND PERFORMANCE TO SUBSCRIBED USERS. SCHEDULED MAINTENANCE IS WHEN UPGRADES OR UPDATES NEED TO BE APPLIED (I.E. STANDARD SOFTWARE RELEASES, NON-CRITICAL SOFTWARE UPDATES). SCHEDULED MAINTENANCE SHALL BE DONE DURING THE HOURS OF 9PM AND 5AM.

TASK NAME	MAINTENANCE ACTION	STAFF SCHEDULED	SERVICE INTERVAL	BY WHOM
PREVENTATIVE MAINTENANCE INSPECTIONS	MINOR ON-SITE ADJUSTMENTS & REPAIRS, MAINTENANCE STANDARDS CHECKLIST, CLEANING (BIKES AND DOCKS), DOCK CHECK, BATTERY CHANGES & MAINTENANCE	DAILY	<u>EACH BIKE WILL BE SERVICED AT LEAST EVERY 30 DAYS</u>	SERVICE TECHNICIANS
REACTIVE MAINTENANCE	REPAIR BROKEN, DEFECTIVE, OR WORN PARTS AS REPORTED BY USERS.	AS NEEDED	AS NEEDED. UPON NOTIFICATION, BIKE SHALL BE REMOVED FROM AVAILABLE SERVICE WITHIN 24 HOURS	SERVICE TECHNICIAN
TUNE UPS	SCHEDULED AND PREVENTATIVE BICYCLE MAINTENANCE, REPLACE PARTS AS SCHEDULED .	ANNUAL	1X/BIKE/YEAR	SERVICE TECHNICIANS

STATION MONITORING	REALLOCATION, CUSTOMER SERVICE, DOCK CHECKS – ENSURE BIKES ARE ONLINE AND COMMUNICATING DOCK ISSUES	DAILY	DAILY	SERVICE TECHNICIANS/CUSTOMER SERVICE
KIOSK MANAGEMENT	SOFTWARE UPGRADES 7 DOCK MAINTENANCE	AS NEEDED	AS NEEDED	STATION AND FLEET MANAGER
UPGRADES, RETROFITS, AUXILIARY TASKS	ADDING UPGRADES, CHANGING PARTS, CHANGING SPONSOR DECALS	AS NEEDED	AS NEEDED	SERVICE TECHNICIANS
REPLACEMENT OF BICYCLES	BUILD NEW BICYCLES AND REPLACE	AS NEEDED	AS NEEDED.	SERVICE TECHNICIAN

EXHIBIT G: INSURANCE REQUIREMENTS

A. CERTIFICATE REQUIREMENTS

The Host Agency will be issued a Certificate of Insurance (a Memorandum of Understanding will not be accepted) with the following minimum requirements:

- Certificate(s) will show current policy number(s) and effective dates,
- Coverage and policy limits will meet, or exceed, requirements below,
- The Certificate Holder will be the Host Agency: _____, Santa Cruz, CA 9506_,
- Certificate will be signed by an authorized representative,
- An endorsement will be provided to show the Host Agency, its officers, officials, and employees as additional insureds.

B. MINIMUM SCOPE AND LIMITS OF INSURANCE

Vendor acknowledges that the insurance coverage and policy limits set forth in this section constitute the minimum amount of coverage required. The Host Agency will be entitled to coverage for the highest limits maintained by Vendor. Coverage will be at least as broad as:

- **COMMERCIAL GENERAL LIABILITY (CGL): \$2,000,000 PER OCCURRENCE; \$2,000,000 AGGREGATE**
Proof of coverage for \$2 Million per occurrence and \$2 Million in the aggregate, including products and completed operations, property damage, bodily injury, personal and advertising injury will be provided on Insurance Services Office (ISO) Form CG 00 01 covering CGL.
- **PROFESSIONAL LIABILITY (ERRORS AND OMISSIONS): \$2,000,000 PER OCCURRENCE OR CLAIM, \$2,000,000 AGGREGATE.**

Vendor will maintain insurance appropriate to Vendor's profession; with limit no less than \$2,000,000 per occurrence or claim, \$2,000,000 aggregate. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after date of completion of the services under this Agreement. If coverage is canceled or non-renewed and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date or start of work date, Vendor must purchase "extended reporting" coverage for a minimum of five (5) years after completion of contract work.

- **AUTOMOBILE LIABILITY:**
Proof of coverage for \$1,000,000 provided on ISO Form Number CA 00 01 covering any auto (Code 1), or if Vendor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), per accident for bodily injury and property damage.
- **WORKERS' COMPENSATION AS REQUIRED BY THE STATE OF CALIFORNIA, WITH STATUTORY LIMITS, AND EMPLOYER'S LIABILITY INSURANCE: \$1,000,000 per accident for bodily injury or disease.**
The Worker's Compensation policy must be **endorsed** with a waiver of subrogation in favor of the Host Agency for all work performed by the Vendor and its employees.

- **For Data Security and Privacy Liability**

1. Vendor shall maintain one or more insurance policies -

Privacy, Technology and Data Security Liability, Cyber Liability, or Technology Professional Liability Insurance coverage in the amount of \$5,000,000 per occurrence or claim, \$10,000,000

aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations undertaken by Vendor in this contract.

2. The policies shall include coverage for claims involving infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion and network security.
3. The policies shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations.
4. The policies shall include, or be endorsed to include, property damage liability coverage for damage to, alteration of, loss of, or destruction of electronic data and/or information "property" of the Host Agency in the care, custody, or control of the Vendor.

C. OTHER INSURANCE PROVISIONS

If Vendor maintains broader insurance coverage and/or higher limits than the minimums shown above in section B, the Host Agency requires and shall be entitled to the broader insurance coverage and/or higher limits maintained by Vendor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Host Agency.

The insurance policies are to comply with the following provisions:

- **ADDITIONAL INSURED STATUS**
The Host Agency, its officers, officials, and employees are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of Vendor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage will be provided in the form of an **endorsement** to Vendor's insurance at least as broad as ISO Form CG 20 10 11 85, or if not available, through the addition of **both** CG 20 10 CG 20 26, CG 20 33, or CG 20 38; **and** CG 20 37 (if a later edition is used).
- **PRIMARY COVERAGE**
For any claims related to this Agreement, Vendor's insurance coverage will be **primary** insurance as respects the Host Agency, its officers, officials, and employees. Any insurance or self-insurance maintained by the Host Agency will be excess of Vendor's insurance and will not contribute with it.
- **NOTICE OF CANCELLATION**
Each insurance policy required above shall state that the coverage shall not be canceled, except with notice to the Host Agency.
- **WAIVER OF SUBROGATION**
Vendor hereby grants to the Host Agency a waiver of any right to subrogation, except as otherwise not applicable, which any insurer of said Vendor may acquire against the Host Agency by virtue of the payment of any loss, including attorney's fees under such insurance. Vendor agrees to obtain any endorsement that may be necessary to effectuate this waiver of subrogation, but this provision applies regardless of whether or not the Host Agency has received a waiver of subrogation endorsement from the insurer.
- **EXCESS LIABILITY/UMBRELLA INSURANCE POLICIES**
The excess/liability policies will provide similar coverage as the primary CGL policy with no new exclusions - Excess liability insurance must **follow form** the terms, conditions, definitions, and exclusions

of the underlying CGL insurance. The excess/umbrella policy must also be written on a primary and noncontributory basis for an additional insured, and that it will apply before any other insurance that is available to such additional insured which covers that person or organization as a named insured, and we will not share with that other insurance.

The policy regarding Limits of Insurance regarding Aggregates must provide that the aggregate limits if applicable shall apply in the same manner as the aggregate limits shown in the Schedule of the Underlying Insurance.

- **SELF-INSURED RETENTIONS**

Self-insured retentions must be declared to and approved by the Host Agency. Host Agency may require Vendor to purchase coverage with a lower retention or provide proof of ability to pay losses and related expenses. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or Host Agency.

- **ACCEPTABILITY OF INSURERS**

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII, unless otherwise acceptable to the Host Agency.

- **CLAIMS MADE POLICIES**

If any of the required policies provide coverage on a claims-made basis:

1. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.
3. If coverage is canceled or non-renewed, and not *replaced with another claims-made policy form with a Retroactive Date* prior to the contract effective date, the Vendor must purchase "extended reporting" coverage for a minimum of *five (5)* years after completion of contract work.

- **VERIFICATION OF COVERAGE**

Vendor will furnish the Host Agency with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause) and a copy of the Declarations and Endorsement Page of the CGL Policy listing all policy endorsements to be approved by the Host Agency before work commences. However, failure to obtain the required documents prior to the work beginning will not waive the Vendor's obligation to provide them. The Host Agency reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

D. SUBCONTRACTORS

Vendor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that Host Agency is an additional insured on insurance required from subcontractors.

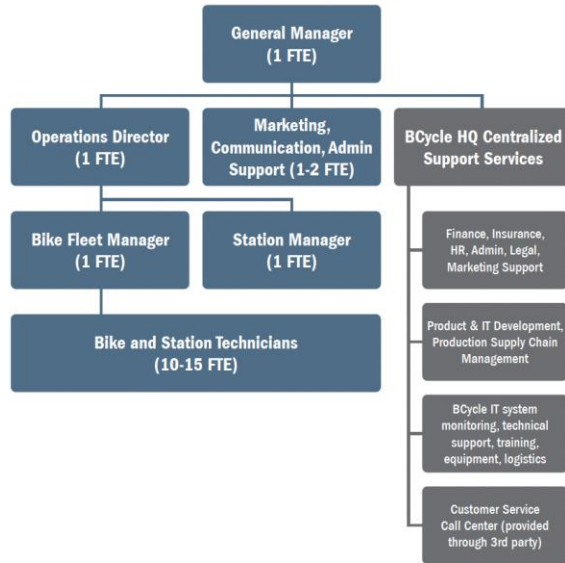
E. SPECIAL RISKS/CIRCUMSTANCES

Host Agency reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances and provide notice to Vendor.

EXHIBIT H: CONDITIONS OF USE OF PUBLIC PROPERTY AND PUBLIC RIGHT-OF-WAY

Participating Jurisdictions to insert example encroachment agreement here.

EXHIBIT I: PROPOSED VENDOR ORGANIZATIONAL CHART



The General Manager is responsible for overall program success including administration, operations, marketing, sponsorship, customer service, and public and community relations.

Reporting to the General Manager will be an Operations Director whose responsibilities include:

- Overall responsibility of system functionality including bicycle, station, and fleet functionality, availability, and service
- Operations team recruitment, hiring, training, scheduling, coaching, assessment
- Station siting, implementation, & installation
- Development and continuous improvement of operating plans and policies
- Complete and accurate record keeping and inventory management
- Coordination with operational call center processes
- Vehicle and facility maintenance, repair
- Emergency response planning