

AGREEMENT BETWEEN THE CITY OF WHITEWATER AND BIRD RIDES, INC.

The City of Whitewater (City) will permit Bird Rides, Inc. (Bird) to provide services under the following terms and limitations. This agreement shall begin on July 6, 2021, and remain in effect until June 30, 2022 unless terminated as set forth below.

AGREEMENT

- 1) This Agreement and its terms apply to the Bird Rides, Inc. deployment of a stand-up electric scooter sharing system (within the City's jurisdictional boundaries). During the term of this agreement or June 30, 2022 whichever is shorter, the City of Whitewater will not enter into any other stand-up electric scooter agreement for the deployment of electric scooters.
- 2) Stand-up electric scooters shall be governed by the rules applying to bicycles and are to be ridden on streets, and where available, in bike lanes and bike paths. Stand-up electric scooters shall stay to the right of street lanes and to offer the right of way to bicycles in bike lanes and on bike paths. Users of stand-up electric scooters shall be 18 or older. Users of stand-up electric scooters who violate these provisions may be fined by the City consistent with City ordinances.
- 3) Bird shall provide easily visible contact information, including toll-free phone number and/or e-mail address on each stand-up electric scooter for members of the public to make relocation requests or to report other issues with devices. Each vehicle shall include a written notice on it in a conspicuous place providing a phone number of a local contact for the purpose of reporting problems and exchanging information. The notice shall state that the police department should not be called unless there is an ordinance or criminal violation.
- 4) Hours of operation. Bird stand-up electric scooters shall not be operated between the hours of 10:00 p.m. and 4:00 a.m.
- 5) Bird scooters shall not be operated in the City between November 1st until March 31st annually (or such other dates as agreed to by the parties in writing).

Bird shall provide a geofence around the University of Wisconsin-Whitewater campus so that Bird scooters will not be operable on the campus.

Parking of Bird scooters shall be parked in compliance with the below regulations:

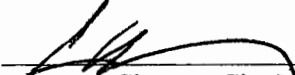
- a) Electric scooters shall be parked in an upright position, with 2 wheels making a point of contact with the ground.
- b) Electric scooters shall not be parked in a way that provides less than a five (5) foot wide path on the sidewalk for pedestrian access.
- c) Electric scooters shall not be parked in a way that obstructs access to parking meters.
- d) Electric scooters shall not be parked between the sidewalk and the curb where such area is less than three (3) feet wide.
- e) Where possible without impeding the flow of pedestrian traffic, an electric scooter may be parked on a sidewalk, or in a bicycle rack or other similar area designated for bicycle parking.
- f) On blocks without sidewalks, electric scooters may be parked in the roadway if the right-of-way and the pedestrian way are not obstructed by so parking the electric scooter.
- g) Except at existing permitted bicycle facilities, electric scooters shall not be parked between the sidewalk and the curb where adjacent to or within the following locations:

(1) parklets; (2) loading zones; (3) accessible parking spaces; (4) curb ramps; (5) entryways; (6) driveways; (7) street furniture requiring pedestrian access; and (8) transit stops (including bus stops, shelters and passenger waiting areas).

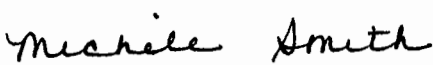
- 6) Safety Education. Bird will provide materials, videos and signage to promote safe riding and educate riders on rider responsibilities and encourage safe and courteous riding and parking.
- 7) Data sharing. Bird will provide data to the City as necessary to assist with monitoring program usage.
- 8) Indemnification. Bird agrees to indemnify, defend and hold harmless the City (and City employees, agents and affiliates) from and against all actions, damages or claims brought against the City arising out of Bird's negligence or willful misconduct, except that Bird's indemnification obligation shall not extend to claims of the City's (City employees', agents' or affiliates') negligence or willful misconduct. The City expressly acknowledges that in no event shall Bird be liable for any special, indirect, consequential or punitive damages. Bird's indemnification obligations shall survive for a period of one (1) year after expiration of this Agreement. Bird shall be released from its indemnification obligations under this section if the loss or damage was caused by the City's negligent construction or maintenance of public infrastructure. The City's right to indemnification shall be contingent on the City notifying Bird promptly following receipt or notice of any claim; Bird shall have the sole control of any defense; the City shall not consent to the entry of a judgment or enter into any settlement without the prior written consent of Bird.
- 9) Insurance. Bird shall provide the City with proof of insurance coverage exclusively for the operation of stand-up electric scooters including:
 - a) Commercial General Liability insurance coverage with a limit of no less than \$1,000,000.00 each occurrence and \$2,000,000.00 aggregate;
 - b) Automobile Insurance coverage with a limit of no less than \$1,000,000.00 each occurrence and \$1,000,000.00 aggregate; and
 - c) where Bird employs persons within the City, Workers' Compensation coverage of no less than the statutory requirement.
- 10) Notices. All notices and communications to the City from Bird shall be made in writing (includes electronic communications) and sent the address below.
- 11) Either party may terminate this agreement at any time and without cause upon (30) days prior written notice.
- 12) In carrying out their responsibilities, the parties shall remain independent contractors, and nothing herein shall be interpreted or intended to create a partnership, joint venture, employment, agency, franchise or other form of agreement or relationship.
- 13) This agreement shall be governed by and construed in accordance with the laws of the State of Wisconsin.

City of Whitewater, Wisconsin

Signed By:


Cameron Clapper, City Manager 6/23/2021
Date

Email: cclapper@whitewater-wi.gov


Michele Smith, City Clerk 6/24/21
Date

Email : msmith@whitewater-wi.gov

Bird Rides, Inc.

DocuSigned by:
Austin Marshburn 6/23/2021
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* Date

Name, Title

Email: birdlegal@bird.com

Austin Marshburn

Head of City & University Partnerships

**Extension Amendment to
Memorandum of Understanding**

This extension amendment (this "Amendment") dated as of July 19, 2022 is entered into by and between Bird Rides, Inc., located at 406 Broadway, #369, Santa Monica, CA 90401 ("Company"), and the City of Whitewater, WI ("City"), and amends that certain Memorandum of Understanding dated as of June 23, 2021, by and between Company and City (as further amended, restated, supplemented or modified from time to time prior to the date hereof, the "Agreement").

The Agreement is amended as follows:

1. Term. The term of the Agreement shall hereby continue through April 30, 2023 and shall automatically renew for successive six-month terms thereafter unless terminated by either party.
2. Except as set forth in this Amendment, the Agreement is unaffected and shall continue in full force and effect in accordance with its terms. If there is conflict between this Amendment and the Agreement or any earlier amendment, the terms of this amendment will prevail.
3. Unless otherwise stated in this Amendment, defined terms shall be given the meanings attributed to them in the Agreement.

Company:

Bird Rides, Inc.

By: Austin Marshburn

Name: Austin Marshburn

Title: Director, City & University Partnerships

City:

Whitewater, WI

By: Cameron Clapper

Name: Cameron Clapper

Title: City Manager

By: Michele Smith

Name: Michele Smith

Title: City Clerk