DATE: April 9, 2019
SUBJECT: Adoption of an Ordinance for a Shared Micromobility Program, and Approval of Micromobility Pilot Agreement to Allow Bicycle, Scooter, and Other Related Micromobility Operators to Conduct Business Within the City of La Mesa
ISSUING DEPARTMENT: Public Works
SUMMARY:

Issues:

1. How should the City manage shared micromobility devices such as dockless bicycles and scooters?

2. Which best practices are being leveraged to ensure safe operation of shared micromobility devices?

Recommendation:

The Traffic Commission and staff recommend that the City Council adopt the attached Ordinance (Attachment A) that would require shared micromobility operators to enter into a license agreement with the City of La Mesa in order to conduct business within City limits, and (2) approve a non-exclusive pilot license agreement (Attachment B) regulating shared micromobility operators, including bicycle and scooter share companies, in the City of La Mesa. The pilot program would allow micromobility sharing operators to run programs during a pilot period.

Fiscal Impact:

There is no fiscal impact at this time. Pending City Council direction, expenses from staff time and vehicle use incurred while removing equipment blocking the
right-of-way could be integrated into the regulatory mechanism as well as a fee for operations.

City’s Strategic Goals:

- Safe community
- Effective and efficient traffic circulation and transportation

Environmental Review:

This project is categorically exempt from the environmental review process under Section 15301 Class1 (b) of Title 14 of the California Code of Regulations.

Climate Action Plan Reduction Strategy

This action supports implementation of CAP measures T-2 and T-3, which promote transportation demand management efforts and active transportation safety to reduce vehicle miles traveled.

BACKGROUND:

The transportation landscape has evolved rapidly in recent years with a growing variety of transportation options that use mobile phone applications to connect passengers with on-demand services such as shared rides, cars, vans, scooters, and bicycles. Most recently, shared micromobility devices, such as dockless bicycles and electric scooters, have grown in popularity. Micromobility devices provide important first and last mile solutions to users, but they also raise concerns about user safety and access to sidewalks and streets.

In November, City Council directed staff to develop a pilot agreement to allow the City and community to evaluate this transportation trend, while also addressing liability and insurance concerns. In response to that request, this report provides a proposed non-exclusive pilot agreement for Council consideration and provides an update on regulations in the San Diego region.

Regulatory Conditions

The California Vehicle Code (CVC) includes regulations for the operation of motorized devices on the public right-of-way. CVC 21235 requires the operator of a motorized scooter to possess a driver’s license or instruction permit. Starting January, 1, 2019, riders over the age of 18 are not required to wear a helmet. The CVC prohibits the
operation of motorized scooters on sidewalks and on streets with a speed limit over 25 mph, unless in a striped bicycle lane. The CVC also requires bicycles and scooters to be parked in a manner that does not block the pedestrian pathway, and they cannot be left lying on the sidewalk.

Per CVC Section 22651 Authority to Remove Vehicles, a peace officer or a regularly employed and salaried employee who is engaged in directing traffic or enforcing parking laws and regulations can remove a motorized scooter to a place of storage if the “vehicle is parked or left standing upon a highway in a position so as to obstruct the normal movement of traffic or in a condition so as to create a hazard to other traffic upon the highway.”

Current City Practices

In the absence of a formal program, City staff directs callers to contact the dockless scooter and/or bicycle operator directly with any complaints or problems. Should the City be notified of a condition becoming urgent (i.e. blocking right of way or ADA ramp), City staff are dispatched on the same day to collect scooters and bicycles that are left unattended and blocking an ADA ramp or sidewalk (CVC 22651(b)), or a private residence. Since Bird scooters arrived in La Mesa in August, more than 120 scooters have been removed for blocking the right-of-way and pedestrian travel. No fees or fines have been collected, although more than $5K in costs have been incurred by the City to field calls and remove scooters. One non-fatal accident was reported within the City of La Mesa since the scooters arrived in August 2018.

Regional Updates

Since November, multiple local governments in San Diego County have drafted new regulations to manage these micro-mobility devices. A summary of those updates is provided below:

- **San Diego** – The City of San Diego proposed a new permit process for dockless electric scooters in February. The proposed permit includes:
  o Goefencing requirements and limits on the maximum speed of scooters in high-traffic areas;
  o Indemnification and insurance requirements;
  o Requires operators to remove devices in violation of regulations within 3 hours or be charged impound fees;
  o Requirements for operator to educate rights on local and state vehicle traffic codes
  o Data sharing
El Cajon: In January the city passed an ordinance that gives officials the ability to impound any dockless scooter or bike left out for more than 48 hours.

Chula Vista: The city developed a one year permit-based pilot program, which was approved in January 2019. The city set a cap of about 5,000 total devices within Chula Vista. In addition to the $146 annual permit fee, operators are required to pay a program administrative fee of $70/device for the initial minimum deployment of 500 devices.

Coronado: As of March 2018, the city impounds bikes and scooters if they are not retrieved by the company within two hours of notification. Companies must pay a $45 impound fee as well as a $1/day storage fee.

North County Coastal cities: Encinitas, Del Mar, Solana Beach, Carlsbad, and Oceanside have partnered on a joint pilot program where one bike share vendor will serve all the coastal cities. Solana Beach and Encinitas have adopted ordinances that limit business access to just one operator within each city.

SANDAG's Regional Micromobility Coordination effort continues to support local jurisdictions shared micromobility programs while building consensus among cities and other stakeholders in the areas of data sharing, parking and passenger loading, education/outreach, and equity. City staff continues to participate to ensure policies and best practices are integrated into our programming moving forward.

DISCUSSION:

In response to Council direction in November, staff reviewed municipal agreement templates and guidelines to manage shared micromobility devices. From that research, the City developed a non-exclusive pilot agreement that allows the City to learn more about the operator(s) and market trends prior to committing to a permanent program and developing regulatory requirements. The non-exclusive agreement and associated guidelines were modeled after other regional approaches and include:

- Insurance and indemnification requirements
- Cost recovery fee of $30 per device retrieved by City staff
- An operating fee of $1/device/day, as proposed by Bird in March 2018
- Data requirements, consistent with standards developed by SANDAG
- Fleet size limits of 300 devices per operator unless data can demonstrate additional growth
- Safety and education requirements

On December 20, 2018, City staff met with representatives from Bird, Lime, JUMP, and Uber to review the draft pilot agreement and receive feedback. Written comments were accepted through January 18, 2019. One operator submitted comments to the City (Attachment C) and edits were integrated where feasible.
On February 6, 2019, staff presented the updated pilot agreement to the La Mesa Traffic Commission. The Traffic Commission approved the pilot agreement with the recommendation that staff change the agreement from a “dockless bicycle and scooter” agreement to a “micromobility” agreement to allow greater flexibility given the rapidly changing market. The final draft agreement is included in Attachment B.

The agreement is accompanied by changes to the Municipal Code, as outlined in the draft Ordinance (Attachment A). The proposed Code changes include the addition of Chapter 10.19, which specifically addresses shared micromobility devices. The new chapter includes the following sections:

- Title;
- Purpose;
- Definitions;
- Administrative regulations;
- Prohibited conduct;
- Micromobility Share Program operator license agreement;
- Operator indemnity and insurance requirements;
- Grounds for termination, revocation or suspension of operator license agreement;
- Enforcement;
- Servability; and
- Conflicts with prior ordinances.

The Code changes ensure operators are operating legally within the City and prevent unauthorized companies from conducting business. The new chapter was adapted from the Bike Share Program ordinance at the City of Encinitas.

Industry Update

Scooter activity within La Mesa has reduced significantly since the City conducted outreach in January. While activity within La Mesa has slowed, shared micromobility transportation options continue to rapidly evolve and the potential for future deployment within the City remains high.

CONCLUSION:

The shared micromobility landscape continues to rapidly evolve and the framework developed by the City will address liability, insurance, and safety concerns. Given this, staff recommends Council adopt the draft Ordinance and approve the draft
Micromobility Agreement presented today to ensure future micromobility operators have a framework to safely and legally operate within the City of La Mesa.

Reviewed by:

Yvonne Garrett
City Manager

Respectfully submitted by:

Richard Leja
Director, Public Works

Jenny Lybeck
Sustainability Analyst
ORDINANCE NO. 2019-1

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LA MESA ADDING CHAPTER 10.19 TO THE LA MESA MUNICIPAL CODE REGARDING SHARED MICROMOBILITY PROGRAM

Whereas, the City of La Mesa (La Mesa) is committed to the long-range goal of protecting the natural environment, increasing sustainability efforts, and improving overall quality of life, and on March 17, 2018, the City Council unanimously approved its Climate Action Plan (CAP), establishing a number of strategies to achieve greenhouse gas (GHG) emissions reduction goals and targets, including facilitating safe, convenient and affordable alternative transportation options;

WHEREAS, among various other goals, CAP Measures T-1, T-2, and T-3 support the reduction of vehicle miles travelled by supporting car sharing, bike sharing and other potential shared mobility alternatives for the community;

WHEREAS, the City must also balance the benefits of shared mobility alternatives with its obligation to protecting City as well as protecting the health, safety and welfare of those who may use or may be impacted by the use of these shared mobility alternatives on City, streets, roads, sidewalks, facilities and other public rights of way, including, but is not limited to, City obligations to manage City risks arising from these alternative mobility alternatives, ensure compliance with disability regulations, maintain minimum widths for pedestrian usability in City business and commercial corridors and overall preserve a safe, accessible and healthy transportation and pedestrian environment within the City;

WHEREAS, it has become well publicized and reported that competing shared mobility businesses have engaged in aggressive strategies to gain market share in various public jurisdictions, including dropping undocked mobility devices (primarily electric scooters) into local public rights of way, sometimes without municipal knowledge, consultation, permission, ordinance or regulation in place;

WHEREAS, serious injuries to users and third party victims through use of these mobility devices is reportedly on the increase, and accordingly, the City has concluded that there is a need to appropriately assess and manage the safe and efficient operation of the evolving mobility device business within the City; and

WHEREAS, since these shared mobility devices are still a new and evolving mode of transportation within the City and since the City is unable to accurately gauge the scope and scale of their impact on City until user experience and impact can be assessed, the City adopts this Ordinance to establish a micromobility share program allowing operators to conduct business with the City, subject to a negotiated agreement approved by City Council.

NOW THEREFORE, BE IT ORDAINED by the Council of the City of La Mesa, California as follows:

SECTION 1: All of the above statements are true.
SECTION 2: The City Council finds that this action is not a project under the California Environmental Quality Act ("CEQA") because there is no development or physical change that would result from the adoption of this ordinance.

SECTION 3: A new Chapter 10.19 is added to Title 10 – Public Peace, Safety and Morals of the La Mesa Municipal Code to read as follows:

"CHAPTER 10.19
MICROMOBILITY SHARE PROGRAM"

Sections:

10.19.010 Title.
10.19.020 Purpose.
10.19.030 Definitions.
10.19.040 Administrative regulations.
10.19.050 Prohibited conduct.
10.19.060 Micromobility Share Program operator license agreement.
10.19.070 Operator indemnity and insurance requirements.
10.19.080 Grounds for termination, revocation or suspension of operator license agreement.
10.19.090 Impoundment of devices.
10.19.100 Enforcement.
10.19.110 Servability.
10.19.120 Conflicts with prior ordinances.

10.19.010 Title.

Micromobility Share Program

10.19.020 Purpose.

Consistent with the City’s goals of enhancing mobility and access, easing traffic congestion, promoting sustainability and achieving its Climate Action Plan goals, this Chapter initiates a micromobility share program to evaluate the impact of shared mobility alternatives within the City while ensuring the protection of the City and public health and safety, including evaluating the safety of the public traveling by foot, bicycle, or any vehicle on public sidewalks, streets, other public right-of-way and adjacent private property.

10.19.030 Definitions.

A. "Abandoned" shall mean leaving any item unattended for any length of time.

B. "City Manager" shall mean the City Manager or his or her designee.

C. "Operator" shall mean the person(s) or business entity(ies) licensed by the City to operate the Micromobility share Program pursuant to this Chapter.

D. "Micromobility Share Program" shall mean a program establishing a licensee under a license agreement to rent, use, locate, display, offer or place for rent City-approved
micromobility options within City boundaries. The Micromobility Share Program requires the City Manager or delegated staff to monitor and assess the overall performance, safety and benefits of the program.

E. "Public Area" shall mean any outdoor area that is open to the public for public use, whether owned or operated by the City or a private party.

F. "Public Right-of-Way" shall mean any public alley, parkway, public transportation path, roadway, sidewalk, trails, pathways or street that is owned, granted by easement, operated or controlled by the City. This includes, but is not limited to, those private areas adjacent to public property.

G. "Shared Micromobility Device" shall mean any device by which a person can be transported, propelled, moved or drawn, that is rented, used, located, displayed, offered or placed for rent in any public area or public right-of-way for the purpose of transportation, except that a "shared micro-mobility device does not include a rental car, taxicab, or any other device excluded pursuant to administrative regulations.

10.19.040 Administrative regulations.

A. The City may at its discretion develop administrative regulations to implement the provisions of this Chapter, which may include regulations relating to lawful conduct, prohibited conduct, public safety, data sharing, data privacy and/or the timely removal of hazards.

B. No person shall fail to comply with the City’s administrative regulations, if adopted. Any violation of any administrative regulation issued pursuant to this Chapter shall constitute a violation of this Code and shall subject the violator to the penalties set forth in this Code.

10.19.050 Prohibited conduct.

Notwithstanding any other provision of this Code, no person, including Operator, may:

A. Deploy, drop, abandon, leave, dock or otherwise place or encourage the use of any Shared Micromobility Devices within City Boundaries without an executed license agreement with the City of La Mesa.

B. Abandon or temporarily park any Micromobility Share Program Device, in the City Public Right-of-Way or a City Public Area in a manner that: (1) obstructs travel upon or blocks access to a Public Area or Public Right-of-Way; (2) violates ADA or any other disability access and path of travel laws, requirements and/or regulations; (3) poses an immediate public safety hazard or nuisance; or (4) is otherwise prohibited by applicable local, State or Federal laws or administrative regulations; or

C. Use or aid, abet or encourage the use of any Prohibited Mobility Device in violation this Code or impair any license, permit, applicable law or administrative regulation.

D. This Ordinance is not intended to prohibit or limit the lawful private non-commercial use, ownership or operation of a micromobility device within City limits.
A. Under this Micromobility Share Program, the City Manager is authorized to negotiate Micromobility Share Program Operator license agreements authorizing Operators to deploy micromobility devices within designated City locations.

B. The City Manager may impose, as part of the Micromobility Share Program Operator license issued, any and all conditions that are determined necessary to effectuate the purposes of this Chapter, consider accessibility of any Public Area, Public Right-of-Way and the availability of public space for shared use by all, and to protect City and the health, welfare, and safety of the public.

C. When presenting the negotiated Micromobility Share Operator license agreement to City Council for approval, the City Manager shall report, in writing, the reasons supporting the Operator License Agreement terms, conditions and Operator selection.

D. The number, location, technical requirements and mode(s) of Micromobility Share Program Bikes and related applications shall be set forth in the negotiated license agreement approved by City Council.

E. At any time, in the City Council's discretion, the City Council may reassess the approved Operator license agreement and its terms, consistent with the approval of the agreement.

F. The City Council approved Micromobility Share Program Operator license agreement and its determinations under this Section shall constitute the final decision of the City and shall not be subject to further administrative review.

G. Before the Micromobility deployment, the Operator must execute a license agreement in a final form approved by City Council, comply with all license agreement conditions, provide evidence of insurance as required by this Chapter and license agreement and obtain a City business license.


To the fullest extent permitted by law, the City shall not assume any liability whatsoever with respect to having issued a Micromobility Share Program Operator license or otherwise approving the operation of any Shared Micromobility Device. As a condition to the issuance of any Micromobility Share Program Operator license or any other Shared Micromobility Device, the Operator shall at a minimum be required to meet all of the following conditions:

A. The Operator shall, in language approved by the City Risk Manager, agree to indemnify, defend (at Operator's sole cost and expense), and hold harmless the City, and its officers, officials, employees, representatives, and agents from any and all claims, losses, damages, injuries, liabilities or losses which arise out of, or which are in any way related to, the City's issuance of or decision to enter into a Micromobility Share Program Operator license agreement, the process used by the City in making its decision, any alleged violation of any Federal, State or local laws by Operator, and for any and all claims, losses, damages, injuries, liabilities or losses to any Micromobility Device user or any third
party, arising out of, or which are in any way related to, Operator activities and operations, including, but not limited to, under the Program Micromobility Share Operator license agreement.

B. Maintain insurance at coverage limits, and with conditions thereon, as determined by the City Risk Manager as necessary and appropriate, including naming City of La Mesa as an additional insured. The Operator's insurance policy shall be endorsed to state that coverage shall not be cancelled except after thirty days' prior written notice has been given to the City. If any insurance policy issued to an Operator is cancelled for any reason, the license issued under this Chapter is automatically suspended and all Operator operations shall cease. In order to reinstate the license, the licensee shall provide a new certificate and policy of insurance to the City.

10.19.080 Grounds for Termination, Revocation or Suspension of Operator License.

A Micromobility Share Program Operator license agreement may be revoked, suspended, or denied by the City Manager consistent with the terms of the license agreement approved by City Council or for violation of this Chapter.

10.19.090 Impoundment of devices.

A. Except for any Micromobility device authorized by a City Council under a City Micromobility Share Program license agreement, Prohibited Shared Mobility Devices that are rented, used, dropped, left, located, displayed, offered or made available for rent, or Abandoned, in the Public Right-of-Way, Public Area or is otherwise determined to constitute a public nuisance shall be subject to immediate impoundment by the City.

B. The City Council may adopt impound fees by resolution, which shall reflect the City's enforcement, investigation, administration, storage and impound costs.

C. No person shall retrieve any impounded Prohibited Shared Mobility Device except upon demonstrating proper proof of ownership of the device and payment of applicable impound fees.

D. Any Prohibited shared Mobility Device not retrieved from impound for more than 30 calendar days shall be deemed abandoned and may, in the City Manager's discretion, be destroyed or auctioned in accordance with applicable state law.

10.19.100 Enforcement.

A. Any person who violates any provision of this Chapter, shall be guilty of an infraction or a misdemeanor, which shall be subject to the provisions of the general penalty clause set out in Section 1.01.080 of the code of the city of La Mesa.

B. Any person who violates any provision of this Chapter, including any license agreement condition, shall be subject to administrative fines and administrative penalties as outlined in the license agreement.

C. Any person convicted of violating this Chapter in a criminal case, or found to be in violation of this Chapter in a civil or administrative case brought by a law enforcement
agency, shall be ordered to reimburse the City and other participating law enforcement agencies their full investigative costs.

10.19.110 **Servability.**

In the event that any court of competent jurisdiction holds any section, subsection, paragraph, sentence, clause or phrase in this Ordinance to be unconstitutional, preempted or otherwise invalid, the invalid portion shall be severed from this Ordinance and shall not affect the validity of the remaining portions of this Ordinance. The City hereby declares that it would have adopted each section, subsection, paragraph, sentence, clause or phrase in this Ordinance irrespective of whether any one or more sections, subsections, paragraphs, sentences, clauses or phrases in this Ordinance might be declared unconstitutional, preempted or otherwise invalid.

10.19.120 **Conflicts with Prior Ordinances.**

In the event that any City ordinance or regulation, in whole or in part, adopted prior to the effective date of this Ordinance, conflicts with any provisions in this Ordinance, the provisions in this Ordinance will control.”

**EFFECTIVE DATE:** This ordinance shall be effective 30 days after its adoption and the City Clerk shall certify to the adoption of this Ordinance.

INTRODUCED AND FIRST READ at a Regular meeting of the City Council of the City of La Mesa, California, held the 9th day of April 2019, and thereafter PASSED AND ADOPTED at a Regular meeting of said City Council held the 23rd day of April 2019, by the following vote, to wit:

**AYES:**

**NOES:**

**ABSENT:**

**APPROVED:**

MARK ARAPOSTATHIS, Mayor

**ATTEST:**

MEGAN WIEGELMAN, CMC, City Clerk

CERTIFICATE OF CITY CLERK
I, MEGAN WIEGELMAN, City Clerk of the City of La Mesa, California, do hereby certify the foregoing to be a true and correct copy of Ordinance No. 2019-__, duly passed and adopted by the City Council of said City on the date and by the vote therein recited and that the same has been duly published according to law.

MEGAN WIEGELMAN, CMC, City Clerk

(SEAL OF CITY)
SERVICE PROVIDER LICENSE AGREEMENT

THIS SERVICE PROVIDER LICENSE AGREEMENT ("Agreement") is entered into this XX day of ____, 20XX, by and between CITY OF LA MESA, a municipal corporation (the "City"), and COMPANY (a California corporation, partnership, sole proprietor, individual), whose address is ADDRESS (the "Operator"), in reference to the following:

RECITALS:

A. City is a municipal corporation duly organized existing under the laws of the State of California with the power to carry on its business as it is now being conducted under the statutes of the State of California.

B. The goals of City are to provide safe and affordable multi-modal transportation options to all residents, reduce auto traffic congestion, and maximize carbon-free mobility. Shared micromobility services are a component to help the City achieve its transportation goals.

C. Operator proposes to operate a micromobility share program within the City and possesses the technology in its equipment such that its micromobility vehicles may be locked and opened by users with a mobile app and tracked to provide for operations and maintenance.

D. City and Operator desire to enter into a non-exclusive agreement for 1 year, upon the terms and conditions herein.

NOW, THEREFORE, it is mutually agreed by and between the undersigned parties as follows:

1. TERM:

   The term of this Agreement shall commence on the XX day of XX 20XX, and shall terminate on the XX day of XX 20XX, unless terminated earlier as set forth herein.

   This Agreement may be mutually extended, for up to two (2) additional years, at the sole discretion of the City Manager. This Agreement may be amended by mutual agreement of the Parties. Such amendments shall only be effective if incorporated in written amendments to this Agreement and executed by duly authorized representatives of the Parties.

2. SERVICES TO BE PERFORMED:

   Operator agrees to do all necessary work at its own cost and expense, to furnish all labor, tools, equipment, materials, except as otherwise specified, and to do all necessary work included in Exhibit A as requested. The Operator acknowledges that the work plan included in Exhibit A is tentative and does not commit the City to request Operator to perform all tasks included therein.

3. COMPENSATION TO OPERATOR:

   a. There is no monetary compensation for the program services under this Agreement.
4. **STANDARD OF CARE:**
Operator agrees to perform all services hereunder in a manner commensurate with the prevailing standards of like professionals or service providers, as applicable, and agrees that all services shall be performed by qualified and experienced personnel who are not employed by the City.

5. **IMMIGRATION REFORM AND CONTROL ACT (IRCA):**
Operator assumes any and all responsibility for verifying the identity and employment authorization of all of its employees performing work hereunder, pursuant to all applicable IRCA or other federal, or state rules and regulations. Operator shall indemnify, defend, and hold City harmless from and against any loss, damage, liability, costs or expenses arising from any noncompliance of this provision by Operator.

6. **NON-DISCRIMINATION:**
Consistent with City's policy and state and federal law that harassment and discrimination are unacceptable conduct, Operator agrees that harassment or discrimination directed toward a job applicant, a City employee, or a citizen by Operator or Operator's employee on the basis of race, religious creed, color, national origin, ancestry, handicap, disability, marital status, pregnancy, sex, age, or sexual orientation will not be tolerated. Operator agrees that any and all violations of this provision shall constitute a material breach of this Agreement.

7. **HOLD HARMLESS:**
To the furthest extent allowed by law, Operator shall indemnify, hold harmless and defend City and each of its elected officials, officers, employees, agents and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage) incurred by City, Operator or any other person, and from any and all claims, demands and actions in law or equity (including attorney's fees and litigation expenses), arising or alleged to have arisen directly or indirectly out of performance of this Agreement. Operator's obligations under the preceding sentence shall apply regardless of whether City or any of its elected officials, officers, employees, agents and volunteers are negligent, but shall not apply to any loss, liability, fines, penalties, forfeitures, costs or damages caused solely by the gross negligence, or caused by the willful misconduct, of City or any of its elected officials, officers, employees, agents and volunteers.

If Operator should subcontract all or any portion of the work to be performed under this Agreement, Operator shall require each subcontractor to indemnify, hold harmless and defend City and each of its elected officials, officers, employees, agents and volunteers in accordance with the terms of the preceding paragraph.

This section shall survive termination or expiration of this Agreement.

8. **CONDITION OF CITY RIGHT OF WAY:**
   a. City makes the public right of way and City Parks available to Operator in an “AS IS” and “WITH ALL FAULTS” condition. City makes no representations or warranties concerning the condition of the public way and City Parks or its suitability for use by Operator or its customers, and
assumes no duty to warn either Operator or its customers concerning conditions that exist now or may arise in the future.

b. City assumes no liability for loss or damage to Operator's micromobility vehicles or other property. Operator agrees that City is not responsible for providing security at any location where Operator's equipment is stored or located, and Operator hereby waives any claim against City in the event Operator's equipment or other property are lost or damaged.

9. INSURANCE:

Throughout the life of this Agreement, Operator shall pay for and maintain in full force and effect all policies of insurance required hereunder with an insurance company(ies) either (i) admitted by the California Insurance Commissioner to do business in the State of California and rated not less than "A-VII" in Best's Insurance Rating Guide, or (ii) authorized in writing by City Manager or his/her designee at any time and in his/her sole discretion. The following policies of insurance are required:

(i) COMMERCIAL GENERAL LIABILITY insurance which shall be at least as broad as the most current version of Insurance Services Office (ISO) Commercial General Liability Coverage Form CG 00 01 and include insurance for “bodily injury,” “property damage” and “personal and advertising injury” with coverage for premises and operations (including the use of owned and non-owned equipment), products and completed operations, and contractual liability (including, without limitation, indemnity obligations under the Contract) with limits of liability of not less than the following:

* $2,000,000 per occurrence for bodily injury and property damage
* $2,000,000 per occurrence for personal and advertising injury
* $2,000,000 aggregate for products and completed operations
* $4,000,000 general aggregate

(ii) COMMERCIAL AUTOMOBILE LIABILITY insurance which shall be at least as broad as the most current version of Insurance Service Office (ISO) Business Auto Coverage Form CA 00 01, and include coverage for all owned, hired, and non-owned automobiles or other licensed vehicles (Code 1 - Any Auto) with limits of liability of not less than $1,000,000 per accident for bodily injury and property damage.

(iii) WORKERS' COMPENSATION insurance as required under the California Labor Code.

(iv) EMPLOYERS' LIABILITY insurance with limits of liability of not less than $1,000,000 each accident, $1,000,000 disease policy limit and $1,000,000 disease each employee.

In the event Operator purchases an Umbrella or Excess insurance policy(ies) to meet the minimum limits of insurance set forth above, this insurance policy(ies) shall “follow form” and afford no less coverage than the primary insurance policy(ies).

Operator shall be responsible for payment of any deductibles contained in any insurance policies required hereunder and Operator shall also be responsible for payment of any self-insured retentions. Any deductibles or self-insured retentions must be declared to, and approved by, the City Manager or his/her designee in his/her sole discretion. At the option of the City Manager or his/her designee, either (i) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City, and each of its elected officials, officers, employees, agents and volunteers; or (ii) Operator shall provide a
All policies of insurance required hereunder shall be endorsed to provide that the coverage shall not be cancelled, non-renewed, reduced in coverage or in limits except after 30 calendar days written notice by certified mail, return receipt requested, has been given to City. Upon issuance by the insurer, broker, or agent of a notice of cancellation, non-renewal, or reduction in coverage or in limits, Operator shall furnish City with a new certificate and applicable endorsements for such policy(ies). In the event any policy is due to expire during the work to be performed for City, Operator shall provide a new certificate, and applicable endorsements, evidencing renewal of such policy not less than 15 calendar days prior to the expiration date of the expiring policy.

The General Liability (including ongoing operations and completed operations), Automobile Liability insurance policies shall be written on an occurrence form and shall name City, its elected officials, officers, employees, agents and volunteers as an additional insured. All such policies of insurance shall be endorsed so Operator’s insurance shall be primary and no contribution shall be required of City, its elected officials, officers, employees, agents and volunteers. The coverage(s) shall contain no special limitations on the scope of protection afforded to City, its elected officials, officers, employees, agents and volunteers. If Operator maintains broader coverage and/or limits of liability greater than those shown above, City requires and shall be entitled to the broader coverage and/or the higher limits of liability maintained by Operator. Any Workers’ Compensation insurance policy shall contain a waiver of subrogation as to City, its elected officials, officers, employees, agents and volunteers.

Operator shall furnish City with all certificate(s) and applicable endorsements effecting coverage required hereunder. All certificates and applicable endorsements are to be received and approved by the City Manager or his/her designee in his/her sole discretion prior to City’s execution of the Agreement and before work commences. Upon request of City, Operator shall immediately furnish City with a complete copy of any insurance policy required under this Agreement, including all endorsements, with said copy certified by the underwriter to be a true and correct copy of the original policy. This requirement shall survive expiration or termination of this Agreement.

If at any time during the life of the Agreement or any extension, Operator or any of its subcontractors fail to maintain any required insurance in full force and effect, all work under this Agreement shall be discontinued immediately until notice is received by City that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to City. Any failure to maintain the required insurance shall be sufficient cause for City to terminate this Agreement. No action taken by City hereunder shall in any way relieve Operator of its responsibilities under this Agreement.

The fact that insurance is obtained by Operator shall not be deemed to release or diminish the liability of Operator, including, without limitation, liability under the indemnity provisions of this Agreement. The duty to indemnify City shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by Operator. Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of Operator, its principals, officers, agents, employees, persons under the supervision of Operator, vendors, suppliers, invitees, consultants, sub-consultants, subcontractors, or anyone employed directly or indirectly by any of them.
If Operator should subcontract all or any portion of the services to be performed under this Agreement, Operator shall require each subcontractor to provide insurance protection in favor of City, its elected officials, officers, employees, agents and volunteers in accordance with the terms of each of the preceding paragraphs, except that the subcontractors' certificates and endorsements shall be on file with Operator and City prior to the commencement of any work by the subcontractor.

10. **CONFLICT OF INTEREST:**

Operator warrants that it is not a conflict of interest for Operator to perform the services required by this Agreement. Operator may be required to fill out a conflict of interest form if the services provided under this Agreement requires Operator to make certain governmental decisions or serve in a staff capacity as defined in Title 2, Division 6, Section 18700 of the California Code of Regulations.

11. **PROHIBITION AGAINST TRANSFERS:**

a. Operator shall not assign, sublease, hypothecate, or transfer this Agreement, or any interest therein, directly or indirectly, by operation of law or otherwise, without prior written consent of the City Manager. Operator shall submit a written request for consent to transfer to the City Manager at least thirty (30) days in advance of the desired transfer. The City Manager may consent or reject such request in his/her sole and absolute discretion. Any attempt to do so without said consent shall be null and void, and any assignee, sublessee, hypothecator or transferee shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer. However, claims for money against the City under this Agreement may be assigned by Operator to a bank, trust company or other financial institution without prior written consent.

b. The sale, assignment, transfer or other disposition of any of the issued and outstanding capital stock of Operator, or of the interest of any general partner or joint venturer or syndicate member or cotenant, if Operator is a partnership or joint venture or syndicate or cotenancy, which shall result in changing the control of Operator, shall be construed as an assignment of this Agreement. Control means fifty percent or more of the voting power of the corporation.

12. **PERMITS AND LICENSES:**

Operator at its own cost and expense, shall comply with all statutes, ordinances, regulations, and requirements of all governmental entities applicable to its use of City Right of Way and City Parks and the operation of its micromobility program, including but not limited to laws governing operation of micromobility. If any license, permit, or other governmental authorization is required for Operator's lawful use or occupancy of City Right of Way or City Parks or any portion thereof, Operator shall procure and maintain such license, permit and/or governmental authorization throughout the term of this Agreement.

13. **REPORTS:**

a. Each and every report, draft, work product, map, record and other document produced, prepared or caused to be prepared by Operator pursuant to or in connection with this Agreement shall be made available to the City.

b. Operator shall, at such time and in such form as City Manager or his/her designee may
14. RECORDS:

a. Operator shall keep records pertinent to the micromobility usage and performance within the City. Operator shall maintain complete and accurate records with respect to the services, tasks, work, documents and data in sufficient detail to permit an evaluation of micromobility vehicle performance within the City under the Agreement.

15. NOTICES:

a. All notices shall be in writing and delivered: (i) by hand; or (ii) sent by registered, express, or certified mail, with return receipt requested or with delivery confirmation requested from the U.S. postal service; or (iii) sent by overnight or same day courier service at the party’s respective address listed in this Section.

b. Each notice shall be deemed to have been received on the earlier to occur of: (x) actual delivery or the date on which delivery is refused; or (y) three (3) days after notice is deposited in the U.S. mail or with a courier service in the manner described above (Sundays and City holidays excepted).

c. Either party may, at any time, change its notice address (other than to a post office box address) by giving the other party three (3) days prior written notice of the new address.

d. All notices, demands, requests, or approvals from Operator to City shall be addressed to City at:

City of La Mesa Public Works Department
8130 Alison Ave.
La Mesa, CA 91942
ATTENTION: Public Works Director

e. All notices, demands, requests, or approvals from City to Operator shall be addressed to Operator at:

[Operator name] [Department]
[Address]
[City, State, zip]
ATTENTION:
[Title]
Ph: (xxx) [xxx-xxxx] / Fax: (xxx) [xxx-xxxx]

16. SAFETY:

a. The Operator will be solely and completely responsible for conditions of all vehicles owned or operated by Operator, including the safety of all persons and property during performance of the services and tasks under this Agreement. This requirement will apply continuously and not be limited to normal working hours. In addition, Operator will comply with all safety provisions in conformance with U.S. Department of Labor Occupational Safety and Health Act, any equivalent state
law, and all other applicable federal, state, county and local laws, ordinances, codes, and any regulations that may be detailed in other parts of the Agreement. Where any of these are in conflict, the more stringent requirements will be followed. The Operator's failure to thoroughly familiarize itself with the aforementioned safety provisions will not relieve it from compliance with the obligations and penalties set forth herein.

b. The Operator will immediately notify the City within 24 hours of any incident of death, serious personal injury or substantial property damage that occurs in connection with the performance of this Agreement. The Operator will promptly submit to the City a written report of all incidents that occur in connection with this Agreement. This report must include the following information: (i) name and address of injured or deceased person(s); (ii) name and address of Operator's employee(s) involved in the incident; (iii) name and address of Operator's liability insurance carrier; (iv) a detailed description of the incident; and (v) a police report.

17. **TERMINATION:**

a. This Agreement may be terminated prior to the expiration date set forth in Section 1, above, upon the occurrence of any of the following conditions:

1) Upon delivery of at least thirty (30) days' prior written notice from City to Operator terminating this Agreement for material breach of its terms by Operator, any reason, or for no reason, or if circumstances pose a serious threat to public health or safety, the Agreement may be terminated immediately.

2) An attempt by Operator to transfer or assign this Agreement.

b. Operator shall not terminate this Agreement without first giving at least thirty (30) days' written notice of plans for termination.

c. Upon the effective date of termination of this Agreement by either Party, Operator shall, at its sole cost and expense, immediately remove all micromobility vehicles from the City and restore all City Right of Way and City Parks to the condition of the City Right of Way and City Parks at the Commencement Date of this Agreement.

18. **COMPLIANCE WITH ALL APPLICABLE LAWS:**

During the Term of this Agreement, Operator shall keep fully informed of all existing and future state and federal laws and all municipal ordinances and regulations of the City of La Mesa which affect the manner in which the services or tasks are to be performed by the Operator, as well as all such orders and decrees of bodies or tribunals having any jurisdiction or authority over the same. Operator shall comply with all applicable laws, state and federal and all ordinances, rules and regulations enacted or issued by City.

19. **CONFLICT OF LAW:**

This Agreement shall be interpreted under, and enforced by the laws of the State of California without regard to any choice of law rules which may direct the application of laws of another jurisdiction. The Agreement and obligations of the parties are subject to all valid laws, orders, rules, and regulations of the authorities having jurisdiction over this Agreement (or the successors of those authorities.) Any suits brought pursuant to this Agreement shall be filed with the courts of San Diego County, State of California.
20. **WAIVER:**

A waiver by City of any breach of any term, covenant, or condition contained herein shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained herein, whether of the same or a different character.

21. **INTEGRATED CONTRACT:**

The Recitals and Exhibits are a material part of this Agreement and are expressly incorporated herein. This Agreement represents the full and complete understanding of every kind or nature whatsoever between the parties hereto, and all preliminary negotiations and agreements of whatsoever kind or nature are merged herein. No verbal agreement or implied covenant shall be held to vary the provisions hereof. Any modification of this Agreement will be effective only by written execution signed by both City and Operator.

22. **CAPTIONS:**

The captions in this Agreement are for convenience only, are not a part of the Agreement and in no way affect, limit or amplify the terms or provisions of this Agreement.

23. **NO JOINT VENTURE, PARTNERSHIP:**

Nothing herein contained shall be in any way construed as expressing or implying that the Parties hereto have joined together in any joint venture, partnership, or liability company or in any manner have agreed to or are contemplating the sharing of profits and losses among themselves in relation to any matter relating to this Agreement.

24. **COUNTERPARTS:**

This Agreement may be executed simultaneously or in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.

*Signatures on next page*
Any OPERATOR operating a micromobility share system on or over the surface of any appropriate public rights-of-way and City Parks for purposes of providing access and mobility services in the City shall be subject to the requirements herein.

Operator is advised that requirements listed as “must,” “shall,” or “required” are considered mandatory specifications at this time. Those specifications that are listed as “preferred” are value-added.

DEFINITIONS

“City Parks” refers to hard-surfaced areas owned and maintained by the City within designated City parks.

“Right of Way” refers to sidewalks, roads, and other pathways owned and maintained by the City.

“Equipment” refers to micromobility vehicles owned and operated by Operator.

“Micromobility” refers to small, manually or electrically powered vehicles used to travel short distances. Examples include, but are not limited to, bicycles, e-bicycles, scooters, and e-scooters one-wheels

SAFETY REQUIREMENTS

S1: All bicycles shall meet the standards outlined in the Code of Federal Regulations (CFR) under Title 16, Chapter II, Subchapter C, Part 1512 – Requirements for Bicycles. Additionally, all models of bicycles in the fleet shall meet the safety standards outlined in ISO 43.150 – Cycles, subsection 4210.

S2: All powered scooters shall be equipped with equipment meeting all specifications, including but not limited to brakes, reflectors, and lighting as set forth in California Vehicle Code Sections 21220 - 21235 (Operation of Motorized Scooters). All scooters must be certified as safe to operate under any applicable standard by Underwriters Laboratories or an equivalent safety rating agency.

S3: All bicycles shall meet the bicycle requirements in the California Vehicle Code, including for lights and reflectors.

S4: Operator shall require that all electric-assist bicycles used in La Mesa meet the National Highway Traffic Safety Administrations (NHTSA) definition of low-speed electric bicycles; and shall be subject to the same requirements as ordinary bicycles. This means that electric-assist bicycles shall have the following without limitation: fully operable pedals, an electric motor of less than 750 watts, and a top motor-powered speed of less than 20 miles per hour when operated by a rider weighing 170 pounds. Electric-assisted bicycles shall cease to provide assistance when the bicycle reaches or exceeds 15 miles per hour. Additionally, the City reserves the right to request removal of equipment if the battery or motor on an electric bicycle is determined by the City to be unsafe for public use.
S5: For all electric-assist small vehicles, the maximum moto-assist speed shall not exceed 15 mph. The City retains the right to create geo-fenced locations within the City where Operators shall reduce micromobility vehicle speeds below 15 mph.

S6: Front and rear lights of all equipment must turn on automatically and stay on while a trip is being made, whether the user is in motion or stopped that is visible from a distance of at least 300 feet under normal atmospheric conditions at night. When stopped, the light must stay on for 90 seconds. Lights must be integrated into the micromobility vehicle without exposed wiring that could be easily damaged or tampered with.

S7: Operator shall incorporate messaging and education into all user interfaces (app, email, et al), including upon user sign-up, that boldly and clearly notifies the user that people under age 18 must wear a helmet (CVC 21212). Additionally, Operator shall incorporate the following messaging and education into their user interfaces (app, email, et al):
- Minimum age to use a micromobility share in accordance with state law, and any special requirements for those under 18 years of age to sign-up for the program, including safety equipment,
- Micromobility vehicles must yield to pedestrians in crosswalks (CVC 21950) and shall not ride on the sidewalk,
- Equipment may not be left on their sides on the sidewalk or parked in a manner which obstructs pedestrians.

S8: Operator agrees that the City is not responsible for educating users regarding helmet requirements and other laws. Neither is the City responsible for educating users on how to ride or operate micromobility vehicles. The Operator agree to educate users regarding laws applicable to riding and operating a micromobility vehicle in the City of La Mesa and San Diego County and to instruct users to wear helmets and otherwise comply with applicable laws.

S9: Operator shall provide a mechanism for customers to notify the company of a safety or maintenance issue with the equipment. This information shall be displayed prominently in the app and on the micromobility vehicle.

S10: Operator shall have the capability of remotely controlled maximum speeds of devices using geofencing technology.

PARKING REQUIREMENTS

P1: Use of the Right of Way and City Parks, and Operator’s operations within the City, shall, at a minimum: a) not adversely affect City Right of Way or City Parks; b) not adversely affect the property of any third parties; c) not inhibit pedestrian movement or ADA access within the sidewalks or along other property or rights-of-way owned or controlled by the City; and d) not create conditions which are a threat to public safety and security.

P2: Micromobility vehicles shall always be parked in a way that maintains a minimum of four feet of unobstructed accessible pedestrian travelway.
Micromobility vehicles shall be parked either in the landscape/furniture zone of the sidewalk, along the frontage zone of buildings if permitted by the building owner, at a public bicycle rack, or in a City Park; or at another City-owned location (for example, publicly-accessible plazas or off-street parking lots/garages) with prior written approval of the City.

Micromobility vehicles shall not be parked at the following locations:
- corners of sidewalks or within three feet of crosswalks or curb ramps, or the width of the pedestrian ramp, whichever is greater;
- on blocks where the landscape/furniture zone is less than 24 inches, or where there is no landscape/furniture zone;
- in the landscape/furniture zone adjacent to or in any way blocking: transit stops, shelters or platforms; commercial loading (yellow) zones; passenger loading (white) zones; disabled parking zone; street furniture that requires pedestrian access (for example - benches, parking pay stations, etc.); curb ramps; entryways; and driveways;
- on roadways, driveways or any locations where the equipment creates, or constitutes a traffic hazard;
- the City reserves the right to determine certain block faces where free-floating micromobility share parking is prohibited.

On blocks without sidewalks, micromobility vehicles may be parked if the travel lane(s) and 6-foot pedestrian clear zone are not impeded.

Operator shall inform users/customers how to park devices responsibly and in accordance with all permit requirements.

Micromobility vehicles shall be upright when parked.

Micromobility vehicles may be parked on private property or property owned by a non-City government agency, at the discretion of the private property owner or government agency.

The City retains the right to create geo-fenced drop zones within certain areas where micromobility vehicles shall be parked.

Any free-floating micromobility vehicle that is parked in one location for more than four (4) consecutive days without moving may be removed by City of La Mesa crews and taken to a City facility for storage at the expense of the micromobility share operator. The City shall invoice the violating operator as stated in Requirement F4 below.

Operator must adjust, park, relocate, or remove all improperly parked devices pursuant to Requirement O2.

Operator shall demonstrate that it can employ geofencing technology to encourage, discourage, and prohibit trip ends and parking in geofenced areas. The City retains the right to create geo-fenced stations within certain areas where devices shall be parked.
EQUIPMENT

E1: All micromobility vehicles shall have an emblem of the Operator, current contact information (including for relocation and maintenance requests) and a unique identifier prominently displayed on the equipment.

E2: All micromobility vehicles shall have visible language that notifies the user that people under age 18 must wear a helmet (CVC 21212).

E3: All equipment shall be well-maintained and in good riding condition.

OPERATIONS

O1: Operator shall designate two primary contacts for City of La Mesa staff: (1) a Project Manager, who will coordinate with the City on all aspects of the Agreement; and (2) an Operations Manager, that is capable of relocating or rebalancing micromobility vehicles, removing equipment, and repairing equipment. For both, Operator will provide a contact name, phone number, and email address.

O2: Operator shall respond promptly to any complaint related to improperly parked or unsafe micromobility vehicles. Any equipment that is parked incorrectly shall be re-parked in a correct manner or shall be removed by the Operator, and any micromobility vehicle that is reported as unsafe to ride shall be remotely locked or removed by the Operator, based on these times:

- 8am to 8pm Monday through Sunday, except for State and Federal holidays - within four (4) hours of receiving notice,
- All other times – within four (4) hours of start of business hours after receiving notice.

O3: Any inoperable micromobility vehicle, or any equipment that is not safe to operate shall be removed from the right-of-way within 24 hours after notice from the City or a customer, or self-identification, and shall be repaired before returned to revenue service.

O4: Any equipment that appears to be in an inoperable or unsafe state, is incorrectly parked, or is parked in one location for more than four (4) consecutive days without moving, may be removed by City of La Mesa crews and taken to a City facility for storage at the expense of the Operator. The City shall invoice the Operator as stated in Requirement F4.

O5: Operator shall monitor the distribution of micromobility vehicles and respond to rebalancing issues in real time, with the goal of maximizing availability of bikes and/or scooters for users and minimizing impacts on local residents and businesses.

O6: Operator shall respond to complaints and customer service requests that are not related to improperly parked or unsafe micromobility vehicles, as follows:

- 8am to 8pm Monday through Sunday, except for State and Federal holidays - within four hours of receiving notice,
• All other times – within four (4) hours of start of business hours.

It is preferred that Operator resolve complaints and requests within twenty-four (24) hours of receiving notice of complaint.

O7: Operator shall give the City special rights access to immediately unlock and remove micromobility vehicles blocking access to the City Right of Way or City Parks.

O8: All equipment shall be maintained to ensure that they are safe, in good working order, and of orderly appearance. All equipment shall receive regularly scheduled inspections and full maintenance.

O9: Operator shall not place any unique branding or sponsorship on the micromobility vehicles beyond their own company’s branding, unless permitted by City in advance.

O10: Operator shall not place or attach any personal property, fixtures, or structures to City Right of Way or City Parks without the prior written consent of City or private property owners.

O11: Operator agrees to repair, replace or otherwise restore any part or item of City’s real or personal property that is damaged, lost or destroyed as a result of the Operator’s use of City Right of Way and City Parks, except to the extent such damage is caused by City’s (or its officers’, employees; or agents’) negligence or willful misconduct. Should Operator fail to repair, replace or otherwise restore such real or personal property, Operator expressly agrees to pay City’s costs in making such repairs, replacements or restorations.

O12: Operator shall be prepared to work with the City in the case of emergencies or special events to prioritize the safety of users and respond to municipal concerns. Operator must cooperate with public safety personnel in the case of emergencies, and comply with agreed upon operations plans for special events. Operator is expected to proactively communicate with users during events and emergencies. Access to real time device data must be provided to the City public safety personnel during emergencies and requested events. For bikes and/or scooters on public property, the City may require the Operator to temporarily move equipment to a nearby location if the approved location needs to be used for emergency, event, construction, or public purposes. Bikes and/or scooters may also be moved by City for these purposes.

O13: Operator shall remove its personal property from the City and shall repair to good condition any damage caused thereby within thirty (30) days of the termination of this contract.

O14: Operators shall establish at least one method in which users who may not have a bank account or charge card can rent a device.

O15: Operator shall provide mechanisms for customers to easily and quickly notify the company that there is a safety or maintenance issue with the micromobility vehicle, including via the mobile application and via phone.

O16: At the direction of the City, Operator shall push specific messages through its mobile app and/or email related to safety and any surveys developed by the City in collaboration with Operator.
O17: Operators shall have a maximum fleet size of 300 units unless data supports the addition or subtraction of equipment.

DATA AND REPORTING

DS1: Data for all device types must be provided to the City, and contracted city partners, in the General Bikeshare Feed Specification (GBFS) and Mobility Data Specification (MDS) formats, each through an API.

DS2: Operator shall comply with the micromobility data standards established by SANDAG for all operations within the City.

FEES

F1: Operator shall pay the City’s business license fee to operate the micromobility share program in La Mesa.

F3: Operator shall pay a fee of $1 per micromobility vehicle per day for equipment located in the City. This fee will be paid to the City on a quarterly basis.

F4: City staff time to relocate, remove, and store micromobility vehicles from any prohibited location identified under this agreement shall be reimbursed at a rate of $30 per micromobility vehicle serviced.

F5: If the City incurs any costs addressing or abating any violations of these requirements or incurs any costs of repair or maintenance of public property, upon receiving written notice of the City costs, the Operator shall reimburse the City for such costs within thirty days.
SERVICE PROVIDER AGREEMENT

THIS SERVICE PROVIDER AGREEMENT ("Agreement") is entered into this day of , 20 , by and between CITY OF LA MESA, a municipal corporation (the "City"), and COMPANY (a California corporation, partnership, sole proprietor, individual), whose address is ADDRESS (the "Operator"), in reference to the following:

RECITAL:

A. City is a municipal corporation duly organized existing under the laws of the State of California with the power to carry on its business as it is now being conducted under the statutes of the State of California.

B. The goals of City are to provide safe and affordable multi-modal transportation options to all residents, reduce auto traffic congestion, and maximize carbon-free mobility. Bike and/or scooter share services are a component to help the City achieve its transportation goals.

C. Operator proposes to operate a bike and/or scooter share program within the City and possesses the technology in its equipment such that its bicycles and/or scooters may be locked and opened by users with a mobile app and tracked to provide for operations and maintenance.

D. City and Operator desire to enter into a non-exclusive agreement for 1 year, upon the terms and conditions herein.

NOW, THEREFORE, it is mutually agreed by and between the undersigned parties as follows:

1. TERM:

The term of this Agreement shall commence on the XX day of 20 , and shall terminate on the day of 20 , unless terminated earlier as set forth herein.

This Agreement may be mutually extended, for up to two (2) additional years, at the sole discretion of the City Manager. This Agreement may be amended by mutual agreement of the Parties. Such amendments shall only be effective if incorporated in written amendments to this Agreement and executed by duly authorized representatives of the Parties.
2. SERVICES TO BE PERFORMED:

Operator agrees to do all necessary work at its own cost and expense, to furnish all labor, tools, equipment, materials, except as otherwise specified, and to do all necessary work included in Exhibit A as requested. The Operator acknowledges that the work plan included in Exhibit A is tentative and does not commit the City to request Operator to perform all tasks included therein.

3. COMPENSATION TO OPERATOR:

a. There is no monetary compensation for the program services under this Agreement.

4. STANDARD OF CARE:

Operator agrees to perform all services hereunder in a manner commensurate with the prevailing standards of like professionals or service providers, as applicable, and agrees that all services shall be performed by qualified and experienced personnel who are not employed by the City.

5. IMMIGRATION REFORM AND CONTROL ACT (IRCA):

Operator assumes any and all responsibility for verifying the identity and employment authorization of all of its employees performing work hereunder, pursuant to all applicable IRCA or other federal, or state rules and regulations. Operator shall indemnify, defend, and hold City harmless from and against any loss, damage, liability, costs or expenses arising from any noncompliance of this provision by Operator.

6. NON-DISCRIMINATION:

Consistent with City's policy and state and federal law that harassment and discrimination are unacceptable conduct, Operator agrees that harassment or discrimination directed toward a job applicant, a City employee, or a citizen by Operator or Operator's employee on the basis of race, religious creed, color, national origin, ancestry, handicap, disability, marital status, pregnancy, sex, age, or sexual orientation will not be tolerated. Operator agrees that any and all violations of this provision shall constitute a material breach of this Agreement.

7. HOLD HARMLESS:

To the furthest extent allowed by law, Operator shall indemnify, hold harmless and defend
City and each of its elected officials, officers, employees, agents and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage), (collectively, "Costs") incurred by City, Operator or any other person, and from any and all claims, demands and actions in law or equity (including attorney's fees and litigation expenses) (collectively, "Claims"), asserted against the City (or its employees, officers, and/or agents) and arising or alleged to have arisen directly or indirectly out of performance of this Agreement. Operator's obligations under the preceding sentence shall apply regardless of whether City or any of its elected officials, officers, employees, agents and volunteers are negligent, but shall not apply to any loss, liability, fines, penalties, forfeitures, costs or damages be limited to the extent such Costs and/or Claims are based on or caused solely by the gross negligence, or caused by the willful misconduct, of City or any of its elected officials, officers, employees, agents and volunteers.

If Operator should subcontract all or any portion of the work to be performed under this Agreement, Operator's indemnification obligations shall extend to acts or omissions of its subcontractors and each subcontractor to indemnify, hold harmless and defend City and each of its elected officials, officers, employees, agents and volunteers in accordance with the terms of the preceding paragraph.

This section shall survive termination or expiration of this Agreement.

8. CONDITION OF CITY RIGHT OF WAY:

a. City makes the public right of way and City Parks available to Operator in an "AS IS" and "WITH ALL FAULTS" condition. City makes no representations or warranties concerning the condition of the public way and City Parks or its suitability for use by Operator or its customers, and

b. City assumes no liability for loss or damage to Operator's bicycles and/or scooters or other property. Operator agrees that City is not responsible for providing security at any location where Operator's equipment is stored or located, and Operator hereby waives any claim against City in the event Operator's equipment or other property are lost or damaged.

9. INSURANCE:

Throughout the life of this Agreement, Operator shall pay for and maintain in full force and effect all policies of insurance required hereunder with an insurance company(ies) either (i)
admitted by the California Insurance Commissioner to do business in the State of California and rated not less than "A- VII" in Best's Insurance Rating Guide, or (ii) authorized in writing by City Manager or his/her designee at any time and in his/her sole discretion. The following policies of insurance are required:

(i) COMMERCIAL GENERAL LIABILITY insurance which shall be at least as broad as the most current version of Insurance Services Office (ISO) Commercial General Liability Coverage Form CG 00 01 and include insurance for "bodily injury," "property damage" and "personal and advertising injury" with coverage for premises and operations (including the use of owned and non-owned equipment), products and completed operations, and contractual liability (including, without limitation, indemnity obligations under the Contract) with limits of liability of not less than the following:

- $2,000,000 per occurrence for bodily injury and property damage
- $2,000,000 per occurrence for personal and advertising injury
- $2,000,000 aggregate for products and completed operations
- $4,000,000 general aggregate

(ii) COMMERCIAL AUTOMOBILE LIABILITY insurance which shall be at least as broad as the most current version of Insurance Service Office (ISO) Business Auto Coverage Form CA 00 01, and include coverage for all owned, hired, and non-owned automobiles or other licensed vehicles (Code 1 - Any Auto) with limits of liability of not less than $1,000,000 per accident for bodily injury and property damage.

(iii) WORKERS' COMPENSATION insurance as required under the California Labor Code.

(iv) EMPLOYERS' LIABILITY insurance with limits of liability of not less than $1,000,000 each accident, $1,000,000 disease policy limit and $1,000,000 disease each employee.

In the event Operator may satisfy the minimum per occurrence and aggregate liability limits required in (i) through (iv) above through purchases an Umbrella or Excess insurance policy(ies) so long as such to meet the minimum limits of insurance set forth above, this insurance policy(ies) shall "follow form" and afford no less coverage than the primary insurance policy(ies).

Operator shall be responsible for payment of any deductibles contained in any insurance policies required hereunder and Operator shall also be responsible for payment of any self-insured retentions. Any deductibles or self-insured retentions must be declared to, and approved by, the City Manager or his/her designee in his/her sole discretion. At the option of the City Manager or his/her designee, either (i) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City, and each of its elected officials, officers, employees, agents and volunteers; or (ii) Operator shall provide a
financial guarantee, satisfactory to the City Manager or his/her designee in his/her sole discretion, guaranteeing payment of losses and related investigations, claim administration and defense expenses. At no time shall City be responsible for the payment of any deductibles or self-insured retentions.

All policies of insurance required hereunder shall be endorsed to provide that the coverage shall not be cancelled, non-renewed, reduced in coverage or in limits except after 30 calendar days written notice by certified mail, return receipt requested, has been given to City. Upon issuance by the insurer, broker, or agent of a notice of cancellation, non-renewal, or reduction in coverage or in limits, Operator shall furnish City with a new certificate and applicable endorsements for such policy(ies). In the event any policy is due to expire during the work to be performed for City, Operator shall provide a new certificate, and applicable endorsements, evidencing renewal of such policy not less than 15 calendar days prior to the expiration date of the expiring policy.

The General Liability (including ongoing operations and completed operations), Automobile Liability insurance policies shall be written on an occurrence form and shall name City, its elected officials, officers, employees, agents and volunteers as an additional insured. All such policies of insurance shall be endorsed so Operator’s insurance shall be primary and no contribution shall be required of City, its elected officials, officers, employees, agents and volunteers. The coverage(s) shall contain no special limitations on the scope of protection afforded to City, its elected officials, officers, employees, agents and volunteers. If Operator maintains broader coverage and/or limits of liability greater than those shown above, City requires and shall be entitled to the broader coverage and/or the higher limits of liability maintained by Operator. Any Workers’ Compensation insurance policy shall contain a waiver of subrogation as to City, its elected officials, officers, employees, agents and volunteers.

Operator shall furnish City with all certificate(s) and applicable endorsements effecting coverage required hereunder. All certificates and applicable endorsements are to be received and approved by the City Manager or his/her designee in his/her sole discretion prior to City’s execution of the Agreement and before work commences. Upon request of City, Operator shall immediately furnish City with a certificate of insurance evidencing all requirements hereunder complete copy of any insurance policy required under this Agreement, including all endorsements, with said copy certified by the underwriter to be a true and correct copy of the original policy. This requirement shall survive expiration or termination of this Agreement.

If at any time during the life of the Agreement or any extension, Operator or any of its subcontractors fail to maintain any required insurance in full force and effect, all work under this Agreement shall be discontinued immediately until notice is received by City that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to City. Any failure to maintain the required insurance shall be
sufficient cause for City to terminate this Agreement. No action taken by City hereunder shall in any way relieve Operator of its responsibilities under this Agreement.

The fact that insurance is obtained by Operator shall not be deemed to release or diminish the liability of Operator, including, without limitation, liability under the indemnity provisions of this Agreement. The duty to indemnify City shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by Operator. Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of Operator, its principals, officers, agents, employees, persons under the supervision of Operator, vendors, suppliers, invitees, consultants, sub-consultants, subcontractors, or anyone employed directly or indirectly by any of them.

If Operator should subcontract all or any portion of the services to be performed under this Agreement, Operator shall require each subcontractor to provide insurance protection in favor of City, its elected officials, officers, employees, agents and volunteers in accordance with the terms of each of the preceding paragraphs, except that the subcontractors' certificates and endorsements shall be on file with Operator and City prior to the commencement of any work by the subcontractor.

10. CONFLICT OF INTEREST:

Operator warrants that it is not a conflict of interest for Operator to perform the services required by this Agreement. Operator may be required to fill out a conflict of interest form if the services provided under this Agreement requires Operator to make certain governmental decisions or serve in a staff capacity as defined in Title 2, Division 6, Section 18700 of the California Code of Regulations.

11. PROHIBITION AGAINST TRANSFERS:

a. Operator shall not assign, sublease, hypothecate, or transfer this Agreement, or any interest therein, directly or indirectly, by operation of law or otherwise, without prior written consent of the City Manager. Operator shall submit a written request for consent to transfer to the City Manager at least thirty (30) days in advance of the desired transfer. The City Manager may consent or reject such request in his/her sole and absolute discretion. Any attempt to do so without said consent shall be null and void, and any assignee, sublessee, hypothecatee or transferee shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer. However, claims for money against the City under this Agreement may be assigned by Operator to a bank, trust company or other financial institution without prior written consent.

b. The sale, assignment, transfer or other disposition of any of the issued and outstanding capital stock of Operator, or of the interest of any general partner or joint venturer or syndicate member or cotenant, if Operator is a partnership or joint venture or syndicate or cotenancy, which shall result in changing the control of Operator, shall be construed as an
assignment of this Agreement. Control means fifty percent or more of the voting power of the corporation.

12. PERMITS AND LICENSES:

Operator at its own cost and expense, shall comply with all statutes, ordinances, regulations, and requirements of all governmental entities applicable to its use of City Right of Way and City Parks and the operation of its micro-mobility program, including but not limited to laws governing operation of bicycles and/or scooters. If any license, permit, or other governmental authorization is required for Operator’s lawful use or occupancy of City Right of Way or City Parks or any portion thereof, Operator shall procure and maintain such license, permit and/or governmental authorization throughout the term of this Agreement.

13. REPORTS:

a. Each and every report, draft, work product, map, record and other document produced, prepared or caused to be prepared by Operator pursuant to or in connection with this Agreement shall be the exclusive property of City.

b. No report, information or other data given to or prepared or assembled by Operator pursuant to this Agreement shall be made available to any individual or organization by Operator without prior approval of the City Manager or his/her designee.

c. Operator shall, at such time and in such form as City Manager or his/her designee may require, furnish reports concerning the status of services and tasks required under this Agreement.

14. RECORDS:

a. Operator shall maintain complete and accurate records with respect to the services, tasks, work, documents and data in sufficient detail to permit an evaluation of the Operator’s performance under the Agreement, as well as maintain books and records related to sales, costs, expenses, receipts and other such information required by City that relate to the performance of the services and tasks under this Agreement (collectively the “Records”).

b. All Records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Operator shall provide free access to the Records to the representatives of City or its designees during regular business hours upon reasonable prior notice. The City has the right to examine and audit the Records, and to make copies or transcripts therefrom as necessary, and to allow inspection of all proceedings and activities related to this Agreement. Such Records, together with supporting documents, shall be kept separate from other documents and records and shall be maintained by Operator for a period of three (3) years after receipt of final payment.

Comment [OG1]: We cannot agree to this.
c. If supplemental examination or audit of the Records is necessary due to concerns raised by City's preliminary examination or audit of records, and the City's supplemental examination or audit of the records discloses a failure to adhere to appropriate internal financial controls, or other breach of this Agreement or failure to act in good faith, then Operator shall reimburse the City for all reasonable costs and expenses associated with the supplemental examination or audit.

15. NOTICES:

   a. All notices shall be in writing and delivered: (i) by hand; or (ii) sent by registered, express, or certified mail, with return receipt requested or with delivery confirmation requested from the U.S. postal service; or (iii) sent by overnight or same day courier service at the party's respective address listed in this Section.

   b. Each notice shall be deemed to have been received on the earlier to occur of: (x) actual delivery or the date on which delivery is refused; or (y) three (3) days after notice is deposited in the U.S. mail or with a courier service in the manner described above (Sundays and City holidays excepted).

   c. Either party may, at any time, change its notice address (other than to a post office box address) by giving the other party three (3) days prior written notice of the new address.

   d. All notices, demands, requests, or approvals from Operator to City shall be addressed to City at:

      City of La Mesa Public Works
      Department 8130 Alison Ave. La Mesa, CA 91942 ATTENTION: Public Works Director

   e. All notices, demands, requests, or approvals from City to Operator shall be addressed to Operator at:

      [Operator Name] [Department] [Address]
      [City, State, zip] ATTENTION: [Title] Ph: (xxx) [xxx-xxxx] / Fax: (xxx) [xxx-xxxx]

16. SAFETY:

   a. The Operator will be solely and completely responsible for conditions of all vehicles owned or operated by Operator, including the safety of all persons and property during performance of the services and tasks under this Agreement. This requirement will apply continuously and not be limited to normal working hours. In addition, Operator will comply with any applicable federal, state, and local laws and regulations pertaining to the safe operation of the vehicles, including but not limited to traffic laws, speed limits, and parking regulations. Operator shall ensure that all vehicles are maintained in safe and proper working condition and that all necessary safety equipment is present and functioning properly. Furthermore, Operator shall comply with any specific safety requirements or specifications set forth in this Agreement or any related documents.
with all safety provisions in conformance with U.S. Department of Labor Occupational Safety and Health Act, any equivalent state law, and all other applicable federal, state, county and local laws, ordinances, codes, and any regulations that may be detailed in other parts of the Agreement. Where any of these are in conflict, the more stringent requirements will be followed. The Operator’s failure to thoroughly familiarize itself with the aforementioned safety provisions will not relieve it from compliance with the obligations and penalties set forth herein.

b. The Operator will immediately notify the City within 24 hours of any incident of death, serious personal injury or substantial property damage that occurs in connection with the performance of this Agreement. The Operator will promptly submit to the City a written report of all incidents that occur in connection with this Agreement. This report must include the following information: (i) name and address of injured or deceased person(s); (ii) name and address of Operator’s employee(s) involved in the incident; (iii) name and address of Operator’s liability insurance carrier; (iv) a detailed description of the incident; and (v) a police report.

17. TERMINATION:

a. This Agreement may be terminated prior to the expiration date set forth in Section 1, above, upon the occurrence of any of the following conditions:

1) Upon delivery of at least thirty (30) days’ prior written notice from City to Operator terminating this Agreement for material breach of its terms by Operator, any reason, or for no reason, or if circumstances pose a serious threat to public health or safety, the Agreement may be terminated immediately.

2) An attempt by Operator to transfer or assign this Agreement.

b. Operator shall not terminate this Agreement without first giving at least thirty (30) days’ written notice of plans for termination.

c. Upon the effective date of termination of this Agreement by either Party, Operator shall, at its sole cost and expense, immediately remove all bicycles and/or scooters from the City within 30 days and restore all City Right of Way and City Parks to the condition of the City Right of Way and City Parks at the Commencement Date of this Agreement.

18. COMPLIANCE WITH ALL APPLICABLE LAWS:

During the Term of this Agreement, Operator shall keep fully informed of all existing and future state and federal laws and all municipal ordinances and regulations of the City of La Mesa which affect the manner in which the services or tasks are to be performed by the Operator, as well as all such orders and decrees of bodies or tribunals having any jurisdiction
or authority over the same. Operator shall comply with all applicable laws, state and federal and all ordinances, rules and regulations enacted or issued by City.

19. CONFLICT OF LAW:

This Agreement shall be interpreted under, and enforced by the laws of the State of California without regard to any choice of law rules which may direct the application of laws of another jurisdiction. The Agreement and obligations of the parties are subject to all valid laws, orders, rules, and regulations of the authorities having jurisdiction over this Agreement (or the successors of those authorities.) Any suits brought pursuant to this Agreement shall be filed with the courts of San Diego County, State of California.

20. WAIVER:

A waiver by City of any breach of any term, covenant, or condition contained herein shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained herein, whether of the same or a different character.

21. INTEGRATED CONTRACT:

The Recitals and Exhibits are a material part of this Agreement and are expressly incorporated herein. This Agreement represents the full and complete understanding of every kind or nature whatsoever between the parties hereto, and all preliminary negotiations and agreements of whatsoever kind or nature are merged herein. No verbal agreement or implied covenant shall be held to vary the provisions hereof. Any modification of this Agreement will be effective only by written execution signed by both City and Operator.

22. CAPTIONS:

The captions in this Agreement are for convenience only, are not a part of the Agreement and in no way affect, limit or amplify the terms or provisions of this Agreement.

23. NO JOINT VENTURE, PARTNERSHIP:

Nothing herein contained shall be in any way construed as expressing or implying that the Parties hereto have joined together in any joint venture, partnership, or liability company or in any manner have agreed to or are contemplating the sharing of profits and losses among themselves in relation to any matter relating to this Agreement.

24. COUNTERPARTS:

This Agreement may be executed simultaneously or in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.
DRAFT BICYCLE AND/OR SCOOTER SHARE OPERATOR
GUIDELINES

Any OPERATOR operating will operate a bicycle and/or scooter share system on or over
the surface of any appropriate public rights-of-way and City Parks for purposes of providing
access and mobility services in the City shall be subject to the requirements herein.

Operator is advised that requirements listed as "must," "shall," or "required" are considered
mandatory specifications at this time. Those specifications that are listed as "preferred" are
value-added.

DEFINITIONS

"City Parks" refers to hard-surfaced areas owned and maintained by the City within designated
City parks.

"Right of Way" refers to sidewalks, roads, and other pathways owned and maintained by the
City.

"Equipment" refers to bicycle and/or scooters owned and operated by Operator.

SAFETY REQUIREMENTS

S1: All bicycles shall meet the standards outlined in the Code of Federal Regulations (CFR)
under Title 16, Chapter II, Subchapter C, Part 1512 – Requirements for Bicycles. Additionally,
all models of bicycles in the fleet shall meet the safety standards outlined in ISO 43.150 –
Cycles, subsection 4210.

S2: All powered scooters shall be equipped with equipment meeting all specifications, including
but not limited to brakes, reflectors, and lighting as set forth in California Vehicle Code Sections
21220 - 21235 (Operation of Motorized Scooters). All scooters must be certified as safe to
operate under any applicable standard by Underwriters Laboratories or an equivalent safety
rating agency.

S3: All bicycles shall meet the bicycle requirements in the California Vehicle Code, including for
lights and reflectors.

S4: Operator shall require that all electric-assist bicycles used in La Mesa meet the National
Highway Traffic Safety Administrations (NHTSA) definition of low-speed electric bicycles; and
shall be subject to the same requirements as ordinary bicycles. This means that electric-assist
bicycles shall have the following without limitation: fully operable pedals, an electric motor of
less than 750 watts, and a top motor-powered speed of less than 20 miles per hour when operated by a rider weighing 170 pounds. Electric-assisted bicycles shall cease to provide assistance when the bicycle reaches or exceeds 15 miles per hour. Additionally, the City reserves the right to request removal of equipment if the battery or motor on an electric bicycle is determined by the City to be unsafe for public use.

S5: For all electric-assist small vehicles, the maximum moto-assist speed shall not exceed \( \text{20} \text{ mph} \). The City retains the right to create geo-fenced locations within the City where Operators shall reduce e-bicycle and/or scooter speeds below \( \text{20} \text{ mph} \).

S6: Front and rear lights of all equipment must turn on automatically and stay on while a trip is being made, whether the user is in motion or stopped that is visible from a distance of at least 300 feet under normal atmospheric conditions at night. When stopped, the light must stay on for 90 seconds. Lights must be integrated into the bicycle and/or scooter without exposed wiring that could be easily damaged or tampered with.

S7: Operator shall incorporate messaging and education into all user interfaces (app, email, et al), including upon user sign-up, that boldly and clearly notifies the user that people under age 18 must wear a helmet (CVC 21212). Additionally, Operator shall incorporate the following messaging and education into their user interfaces (app, email, et al):

- Minimum age to use a bicycle and/or scooter share, and any special requirements for those under 18 years of age to sign-up for the program,
- Bicycles and/or scooters must yield to pedestrians in crosswalks (CVC 21950) and shall not ride on the sidewalk,
- Bicycles and/or scooters may not be left on their sides on the sidewalk or parked in a manner which obstructs pedestrians.

S8: Operator agrees that the City is not responsible for educating users regarding helmet requirements and other laws. Neither is the City responsible for educating users on how to ride or operate a bicycle and/or scooter. The Operator agree to educate users regarding laws applicable to riding and operating a bicycle and/or scooter in the City of La Mesa and San Diego County and to instruct users to wear helmets and otherwise comply with applicable laws.

S9: Operator shall provide a mechanism for customers to notify the company of a safety or maintenance issue with the equipment. This information shall be displayed prominently in the app and on the bicycle and/or scooter.

S10: Operator shall have the capability of remotely controlled maximum speeds of devices using geofencing technology.

PARKING REQUIREMENTS
P1: Use of the Right of Way and City Parks, and Operator’s operations within the City, shall, at a minimum: a) not adversely affect City Right of Way or City Parks; b) not adversely affect the property of any third parties; c) not inhibit pedestrian movement or ADA access within the sidewalks or along other property or rights-of-way owned or controlled by the City; and d) not create conditions which are a threat to public safety and security.

P2: Bicycles and/or scooters shall always be parked in a way that maintains a minimum of four feet of unobstructed accessible pedestrian travelway.

P3: Bicycles and/or scooters shall be parked either in the landscape/furniture zone of the sidewalk, along the frontage zone of buildings if permitted by the building owner, at a public bicycle rack, or in a City Park; or at another City-owned location (for example, publicly-accessible plazas or off-street parking lots/garages) with prior written approval of the City.

P4: Bicycles and/or scooters shall not be parked at the following locations:
- corners of sidewalks or within three-five feet of crosswalks or curb ramps;
- on blocks where the landscape/furniture zone is less than 24 inches, or where there is no landscape/furniture zone;
- in the landscape/furniture zone adjacent to or in any way blocking: transit stops, shelters or platforms; commercial loading (yellow) zones; passenger loading (white) zones; disabled parking zone; street furniture that requires pedestrian access (for example - benches, parking pay stations, etc.); curb ramps; entryways; and driveways;
- on roadways, driveways or any locations where the bicycle creates, or constitutes a traffic hazard;
- the City reserves the right to determine certain block faces where free-floating bicycle and/or scooter share parking is prohibited.

P5: On blocks without sidewalks, bicycles and/or scooters may be parked if the travel lane(s) and 6-foot pedestrian clear zone are not impeded.

P6: Operator shall inform users/customers how to park devices responsibly and in accordance with all permit requirements.

P7: Bicycles and/or scooters shall be upright when parked.

P8: Bicycles and/or scooters may be parked on private property or property owned by a non-City government agency, at the discretion of the private property owner or government agency.

P9: The City retains the right to create geo-fenced drop zones within certain areas where bicycles and/or scooters shall be parked.
P10: Any free-floating bicycle and/or scooter that is parked in one location for more than 14 consecutive days without moving may be removed by City of La Mesa crews and taken to a City facility for storage at the expense of the bicycle and/or scooter share operator. The City shall invoice the violating operator as stated in Requirement F4 below.

P11: Operator must adjust, park, relocate, or remove all improperly parked devices **pursuant to Requirement O2**.

P12: Operator shall demonstrate that it can employ geofencing technology to encourage, discourage, and prohibit trip ends and parking in geofenced areas. The City retains the right to create geo-fenced stations within certain areas where devices shall be parked.

E1: All bicycles and/or scooters shall have an emblem of the Operator, current contact information (including for relocation and maintenance requests) and a unique identifier prominently displayed on the equipment.

E2: All bicycles and/or scooters **which Operator permits people under age 18 to use** shall have visible language that notifies the user that people under age 18 must wear a helmet (CVC 21212).

E3: All equipment shall be well-maintained and in good riding condition.

**OPERATIONS**

O1: Operator shall designate two primary contacts for City of La Mesa staff: (1) a Project Manager, who will coordinate with the City on all aspects of the Agreement; and (2) an Operations Manager, that is capable of relocating or rebalancing bicycles and/or scooters, removing equipment, and repairing equipment. For both, Operator will provide a contact name, phone number, and email address.

O2: Operator shall respond promptly to any complaint related to improperly parked or unsafe bicycles and/or scooters. Any equipment that is parked incorrectly shall be re-parked in a correct manner or shall be removed by the Operator, and any bicycle and/or scooter that is reported as unsafe to ride shall be remotely locked or removed by the Operator, based on these times: • 8am to 8pm Monday through Saturday, except for State and Federal holidays - within **twenty-four (24) hours** of receiving notice,

• All other times – within **forty-eight (48) hours** of receiving notice.
03: Any inoperable bicycle and/or scooter, or any equipment that is not safe to operate shall be removed from the right-of-way within 24 hours after notice from the City or a customer, or self-identification, and shall be repaired before returned to revenue service.

04: Any bicycle and/or scooter that appears to be in an inoperable or unsafe state, is incorrectly parked, or is parked in one location for more than four (4) consecutive days without moving, may be removed by City of La Mesa crews and taken to a City facility for storage at the expense of the Operator. The City shall invoice the Operator as stated in Requirement F4.

05: Operator shall monitor the distribution of bicycles and/or scooters and respond to rebalancing issues in real time, with the goal of maximizing availability of bikes and/or scooters for users and minimizing impacts on local residents and businesses.

06: Operator shall respond to complaints and customer service requests that are not related to improperly parked or unsafe bicycles and/or scooters, as follows:

- 8am to 6pm Monday through Saturday, except for State and Federal holidays - within two (2) twenty-four hours of receiving notice,
- All other times - within forty-eight (48) hours of start of business hours. It is preferred that Operator resolve complaints and requests within twenty-four (24) hours of receiving notice of complaint.

07: Operator shall give the City special rights access, if needed, to immediately unlock and remove bicycles and/or scooters blocking access to the City Right of Way or City Parks.

08: All bicycles and/or scooters shall be maintained to ensure that they are safe, in good working order, and of orderly appearance. All equipment shall receive regularly scheduled inspections and full maintenance.

09: Operator shall not place any unique branding or sponsorship on the bicycles and/or scooters beyond their own company’s branding, unless permitted by City in advance.

10: Operator shall not place or attach any personal property, fixtures, or structures to City Right of Way or City Parks without the prior written consent of City or private property owners.

11: Operator agrees to repair, replace or otherwise restore any part or item of City’s real or personal property that is damaged, lost or destroyed as a result of the Operator’s use of City Right of Way and City Parks, except to the extent such damage is caused by City’s (or its officers’, employees’ or agents’) negligence or willful misconduct. Should Operator fail to repair, replace or otherwise restore such real or personal property, Operator expressly agrees to pay City’s costs in making such repairs, replacements or restorations.

12: Operator shall be prepared to work with the City in the case of emergencies or special events to prioritize the safety of users and respond to municipal concerns. Operator must cooperate with public safety personnel in the case of emergencies, and comply with agreed
upon operations plans for special events. Operator is expected to proactively communicate with users during events and emergencies. Access to real time device data must be provided to the City public safety personnel during emergencies and requested events. For bikes and/or scooters on public property, the City may require the Operator to temporarily move equipment to a nearby location if the approved location needs to be used for emergency, event, construction, or public purposes. Bikes and/or scooters may also be moved by City for these purposes.

O13: Operator shall remove its personal property from the City and shall repair to good condition any damage caused thereby within thirty (30) days of the termination of this contract.

TeFFAinatien Date.

O14: Operators shall establish at least one method in which users who may not have smartphone, bank account or charge card can rent a device.

O15: Operator shall provide mechanisms for customers to easily and quickly notify the company that there is a safety or maintenance issue with the bicycle and/or scooter, including via the mobile application and via phone.

O16: At the direction of the City, Operator shall push specific messages through its mobile app and/or email related to safety and any surveys developed by the City in collaboration with Operator.

DRAFT - 12/13/2018 Page 5 of 8

DATA AND REPORTING

Note: The required 30 second or less ping rate during a devices operation is intended to facilitate the collection of data identifying the street segments being traveled upon by the users/customers. The City encourages operators to break individual trip routes into individual city block street segments when reporting to further anonymize the data. Individual trip origin and destination data coupled with trip volumes on individual city block segments will assist the City in prioritizing future infrastructure improvements.

DS1: In advance of final contract, each Operator must have an application program interface (API) or other automated mechanism that allows their services to be integrated into third-party mobility applications so that users can see data about and procure services through third-party Mobility as a Service application. In the effort to reduce greenhouse gases and vehicle miles traveled and provide users seamless connections between mobility choices, Operator is...
encouraged to provide device availability information to other third-party mobility applications and transport operators. The intent is to support development of global (all-inclusive) mobility trip planning applications and tools.

**DS2:** Data for all device types must be provided to the City, and contracted city partners, in the General Bikeshare Feed Specification (GBFS) and Mobility Data Specification (MDS) formats, each through an API. The City maintains links to the full specification of these required data formats on the City’s webpage.

**DS3:** GBFS must be made available to the public through the Operator’s website. The MDS feed must be available to contracted City partners for explicit purpose of program management. As such, these feeds must be consumable by third-party software.

**DS4:** Operator agrees to the City using a contracted city partners (i.e. academia, private data analytics firm, etc.) for program management and evaluation. Operator agrees to share data required per this Agreement with the city partners. If Operators require License Agreements or other agreements, Operators will provide them at no cost to the City and city partners and the Agreements will not limit or supersede any requirements of this Agreement.

**DS5:** Operator must maintain a dashboard for the City to use for program monitoring and compliance that displays MDS data.

**DS6:** Data shall be available for the duration of the agreement.

**DS7:** Personally-identifiable information shall not be shared with the City or any other entity; operator shall ensure the privacy of its users/customers.

**DS8:** Non-GBFS data consumed through API by City specified third-party software providers shall not be publicly available without prior consent of the operator.
uploads every 30 seconds):
1. Point location
2. Device identification number
3. Type of Device
4. Charge level (if electric)
5. Additional Data Sharing Requirements:

a. At time of Agreement execution, Operators agree to provide the City either directly, or at the City’s discretion, through a City-approved third-party analytics provider, access to:
   i. Real-time vehicle status through APIs; ii. Trip data for their entire City fleet through APIs; iii. Archival vehicle maintenance data through APIs; iv. Archival incident data or real-time incident reporting through a City-approved third-party analytics provider.

b. APIs should be RESTful, accessed via JSON Web Tokens (JWT), and return data in JSON format.
c. APIs should provide only HTTPS endpoints.
d. APIs must be provided prior to permit issuance.
e. APIs must be provided according to the current version of the Mobility Data Specification (MDS).
f. APIs must be updated at least every 30 seconds.
g. Operators agree that City-approved third-party analytics provider will host vehicle location and trip data for the purposes of providing the City with analytics to support transportation policy and planning.
h. Operators must agree to distribute and provide the City access to results of two User surveys, developed by a City-approved third-party and distributed by the Operators at the discretion of the City.

DS11: Operator agrees to allow the City to publish real-time device availability data to the public.

DS12: As part of the agreement negotiations process, Operator shall demonstrate compliance with the Mobility Data Specification.

DS13: Notwithstanding the returned results of any of the Mobility Data APIs, it shall be the sole responsibility of Operator to comply with the City’s program requirements listed herein.

DS14: Operator shall keep a record of maintenance activities, including but not limited to device identification number, maintenance performed and when any devices are removed.

DRAFT - 12/13/2018 Page 7 of 8

DRAFT BICYCLE AND/OR SCOOTER SHARE OPERATOR GUIDELINES

from/returned to service. Operator shall send these records to the City monthly or as otherwise
DS15: Operator shall keep a record of reported accidents/collisions and send these records to the City monthly or as otherwise requested by the City.

DS16: If available, Operator shall provide an aggregated monthly report of the users/customers riding in or through the city by gender and age. Gender will be reported by male, female, and other. Age will be reported into these age groups: under 18, 18-24, 25-34, 35-44, 45-54, 55-64, 65 and over.

DS17: If a public disclosure request is submitted that could result in the City sharing data required by this permit, the City will notify Operator prior to sharing data.

FEES

F1: Operator shall pay the City's business license fee to operate the bicycle and/or scooter share program in La Mesa.

F3: Operator shall pay a fee of $1 per bicycle and/or scooter per day for equipment located in the City. This fee will be paid to the City on a quarterly basis.

F4: City staff time to relocate, remove, and store bicycles and/or scooters from any prohibited location identified under this agreement shall be reimbursed at a rate of $20 per bicycle and/or scooter serviced.

F5: If the City incurs any costs addressing or abating any violations of these requirements or incurs any costs of repair or maintenance of public property, upon receiving written notice of the City costs, the Operator shall reimburse the City for such reasonable costs within thirty days.