

**INTERLOCAL
MEMORANDUM OF UNDERSTANDING
FOR THE
SOUTHEAST MICHIGAN REGIONAL BIKE SHARING PROGRAM**

This Interlocal Memorandum of Understanding (“MOU”) is entered into by and between **the City of Detroit** (“DETROIT”), **the City of Ferndale** (“FERNDALE”), **the City of Berkley** (“BERKLEY”), **the City of Huntington Woods** (“HUNTINGTON WOODS”), **the City of Oak Park** (“OAK PARK”), and **the City of Royal Oak** (“ROYAL OAK”), each of which is a Michigan municipal corporation. DETROIT, FERNDALE, BERKLEY, HUNTINGTON WOODS, OAK PARK, AND ROYAL OAK may be referred to herein individually as a “Local Community” or collectively as the “Local Communities” as may be applicable.

Whereas, in 2014 and 2015 DETROIT secured certain grant funding from the Federal Transit Administration (“FTA”) to support the development and deployment of a bicycle sharing program (“Program”); and

Whereas, DETROIT has entered into a Memorandum of Agreement (“MOA”) for the Program, effective as of September 1, 2016 subject to all necessary City approvals, with DDP Bike Share Corporation, a Michigan nonprofit corporation (“DDP Bike Share”), under which DETROIT assumed responsibility for administration of the FTA grant funding and DDP Bike Share assumed responsibility for the implementation and operation of the Program; and

Whereas, the Program, commonly known as “MoGo,” has demonstrated significant early success; since publicly launching in May 2017 it has grown to include 430 bicycles distributed among 43 docking station facilities in 10 Detroit neighborhoods and logged more than 237,000 rides in its first 16 months through September 2018; and

Whereas, the Local Communities desire to expand the Program in each of their respective jurisdictions to improve access to non-motorized last-mile transportation options, to mitigate the environmental impacts of transportation alternatives, and to facilitate transportation linkages between the Local Communities, among other purposes in furtherance of the public health, safety, and welfare; and

Whereas, FERNDALE, on behalf of the Local Communities, applied to the Southeast Michigan Council of Governments (“SEMCOG”) for a grant from its apportionment of FY 2019 Transportation Alternatives Program (“TAP”) funding; and

Whereas, SEMCOG has awarded a TAP grant (#2018032) (“Grant”) to the Local Communities in the amount of Four Hundred and Ninety-Five Thousand, Three Hundred and Eighty and 00/100 Dollars (\$495,380.00) (“Grant Funds”), subject to a 70/30 local match requirement in the amount of Two Hundred and Twelve Thousand, Three Hundred and Six and 00/100 Dollars (\$212,306.00) (“Match Funds”) for the purpose of expanding the Program in the Local Communities; and

Whereas, expansion of the Program in the Local Communities will include the procurement and deployment of approximately 30 new “Facilities,” as such term is defined in the MOA, and 150

additional bicycles in the Local Communities, and operation of such Facilities and bicycles as part of the Program; and

Whereas, the Grant is to be administered on behalf of the Local Communities by DETROIT through its Department of Transportation and is to be utilized to enable DDP Bike Share to expand the Program throughout the Local Communities under the terms and conditions set forth in the MOA, as amended, a copy of which is attached for reference purposes only in Exhibit A; and

Whereas, the Local Communities desire to enter into this MOU in order to coordinate their respective activities in furtherance of expansion of the Program.

NOW THEREFORE, DETROIT, FERNDALE, BERKLEY, HUNTINGTON WOODS, OAK PARK, AND ROYAL OAK acknowledge the following mutual understanding:

Section 1: Purpose of This MOU. The purpose of this MOU is to assist the Local Communities in coordinating their respective activities as part of the Project by providing a written memorandum of their understandings, expectations, and intentions, state in good faith and with as much accuracy as possible. This MOU in itself neither requires nor authorizes the disposition or acceptance of any property, or the expenditure or receipt of any funds, by any of the Local Communities. The Local Communities acknowledge that this MOU does not constitute an “interlocal agreement” as established by Article VII, Section 28 of the Michigan Constitution of 1963 and the Urban Cooperation Act of 1967, P.A. 7 of 1967, being M.C.L. 124.501 et seq. as amended, and thus is not subject to the requirements or other standards set forth therein.

Section 2: Grant Administration. The Local Communities acknowledge that the Grant will be administered by DETROIT, through its Department of Transportation, on behalf of all of the Local Communities in accordance with applicable terms set forth in the Grant and the MOA. The Local Communities understand that DETROIT has accrued substantial experience in the administration of grant funding to support the Program and that such experience will enable DETROIT to administer the Grant efficiently and effectively to their mutual advantage. The Local Communities will make all reasonable efforts to support DETROIT’s administration of the Grant, including but not limited to collecting and sharing any materials, documents, data, and other information that DETROIT may need for purposes of Grant administration and compliance, as well as refraining from any activities that could foreseeably violate any terms of the Grant or other Applicable Laws, as defined herein, or that could hinder DETROIT’s ability to administer the Grant in an efficient and effective manner. DETROIT will administer the Grant at its own expense and will not impose upon any of the Local Communities any fee or other obligation for its administration of the Grant.

Section 3: Program Implementation. The Local Communities acknowledge that the Program, including the portion thereof supported by the Grant, will be implemented and operated by DDP Bike Share, with support by DETROIT, as set forth in the MOA. As stated in greater detail in the MOA, DDP Bike Share’s activities may include, but are not necessarily limited to:

- (a) engagement of one or more vendors for equipment and for operations and maintenance services,
- (b) preparation of a marketing and outreach plan for the Program,

- (c) demonstration of compliance with all Applicable Laws,
- (d) identification and accounting of additional sources of funds that may be necessary to satisfy capital and operating costs of the Program, as well as any matching fund requirements,
- (e) advance preliminary review of proposed locations for installation of the Facilities,
- (f) identification and mapping of the locations of all Facilities,
- (g) identification and receipt of all permits and other approvals necessary for installing the Facilities,
- (h) reporting activities in accordance with all FTA and DETROIT requirements, or as requested by DETROIT, and
- (i) meeting with the Local Communities twice yearly or as necessary to discuss the Program, including program metrics and any addition or relocation of the Facilities.

The Local Communities further acknowledge that all Facilities and bicycles for the Program will be procured by DETROIT in accordance with FTA guidelines and other Applicable Laws, and that DETROIT will own and maintain continuing control over all Facilities, subject to any secured interest that the FTA and any other grantor may have, that DDP Bike Share will own all bicycles associated with Facilities located in Detroit, and that each of Local Communities will own all bicycles associated with the Facilities located in its boundaries, including 58 bicycles in Detroit, 29 bicycles in Ferndale, 6 bicycles in Berkley, 3 bicycles in Huntington Woods, 23 bicycles in Oak Park, and 22 bicycles in Royal Oak, all as set forth in the MOA.

The Local Communities will make reasonable efforts to facilitate the activities of DDP Bike Share and DETROIT to implement and operate the Program, and will refrain from any actions that could foreseeably hinder DDP Bike Share's or DETROIT's ability to implement and operate the Program in an efficient and effective manner. DETROIT, acting through its contractual relationship with DDP Bike Share established in the MOA, will encourage DDP Bike Share to establish and maintain open lines of communication and strong working relationships with each of the Local Communities in order to help ensure the success of its implementation and operation of the Program in each of the Local Communities.

Section 4: Approvals. The Local Communities understand that the Facilities may be located in easements, streets, sidewalks, and other rights of way within their respective jurisdictions and control. As set forth in the MOA, it is the responsibility of DDP Bike Share to apply for and secure all necessary permits for the installation and operation of the Facilities in such locations. To facilitate implementation and operation of the Program, each Local Community will identify for DDP Bike Share all permits and other approvals that may be necessary for installation of the Facilities at such locations within its jurisdiction and will accept and diligently process applications by DDP Bike Share for such approvals in accordance with its existing review and approval procedures. If a Local Community is not able to issue approvals for the installation of a Facility at any specific location, it will consult with DDP Bike Share to identify an alternative location that is acceptable to DDP Bike Share and that can be approved by the Local Community.

The Local Communities acknowledge that the Program is financially supported in part by revenue generated by the display of various advertising materials on the Facilities, and that such advertising is subject to guidelines that have been or may be promulgated by Detroit, in its capacity as the owner of the Facilities, and understand that the Program will continue to display advertising

materials on the Facilities. Detroit will make reasonable efforts to consult with the Local Communities in advance of any revision to its guidelines and will notify the Local Communities upon adoption of any such revisions. Detroit acknowledges that advertising materials associated with the Facilities in any Local Community may be further subject to that Local Community's applicable signage and advertising regulations and will be sited, posted, and maintained in compliance with such applicable regulations. To the extent that such advertising materials may be subject to permitting or other governmental approvals by any of the Local Communities, such approvals will not be unreasonably withheld.

Section 5: Match Funds. Under the terms of the Grant, Match Funds in the total amount of \$212,306.00 must be provided. As set forth in the MOA, it is the responsibility of DDP Bike Share to identify and account for sources of funds that can be used to satisfy the Match Funds requirement, as well as other capital and operating cost needs. The Local Communities will support DDP Bike Share's efforts to identify such sources of funds. The Local Communities understand and acknowledge that they may be responsible for any remaining portion of the Match Funds for which DDP Bike Share is unable to identify. Under such circumstances, each of the Local Communities acknowledges its intention to contribute a percentage of the outstanding portion of the Match Funds that is approximately proportional to the number of Facilities supported by the Grant that are located within its legal boundaries. The anticipated contribution from each of the Local Communities is set forth in Exhibit B. Each Local Community will authorize and execute any such contribution by means to be agreed upon between it and DDP Bike Share and subject to its own budgeting and approval processes.

Section 6: Compliance with Laws. Each Local Community acknowledges that it is individually responsible for maintaining compliance in all respects with all applicable federal, state, and local laws, rules, regulations, and orders having the binding effect of law (collectively, "Applicable Laws"). No Local Community will be responsible for ensuring any other Local Community's compliance with Applicable Laws at any time, unless so required under Applicable Laws.

Section 7: Meetings. The Local Communities may meet amongst themselves at their mutual convenience, whether in person or via video conference, telephone, or other convenient means as necessary to review the status of the Program and to coordinate further activities as may be necessary in furtherance of the Project. The Local Communities may meet with DDP Bike Share twice yearly or as necessary to discuss the Program, including program metrics and any addition or relocation of the Facilities, as set forth in the MOA.

Section 8: Recordkeeping and Reporting. Each Party will maintain information pertinent to its activities under this MOU for at least four (4) years following the conclusion or earlier termination of this MOU, but in no case for less time than may be required to maintain compliance with Applicable Laws and the requirements of the Grant.

Section 9: Non-Discrimination. The Parties will, in performing its activities set forth herein, refrain from refusing, restricting, withholding, or denying any accommodations, services, privileges, advantages or facilities or otherwise discriminating, whether directly or indirectly, on the basis of race, color, ethnicity, national origin, religious beliefs or practices, age, disability, pregnancy, marital status, parental status, military status, employment or educational status,

gender, sex, sexual orientation, gender identity or expression, or any protected classification as may be identified in Applicable Laws

Section 10: Effective Date, Term, and Termination. This MOU will become effective as of the date upon which it has been duly signed and executed by an authorized representative of each of the Local Communities (“Effective Date”). The term of this MOU will be equal to the term of the MOA (“Term”). This MOU will remain in effect until the expiration of the Term or its earlier termination by the Parties. Any Local Community may withdraw from this MOU without cause upon 180 days’ advance written notice to all other Local Communities, which must be provided in accordance with Section 12 of this MOU. Upon such withdrawal, DETROIT will notify the FTA and DDP Bike Share, which may take action to remove Facilities from the withdrawing Local Community, among other wind down activities, and this MOU may continue in effect as between the remaining Local Communities. This MOU will terminate upon the withdrawal of any five of the Local Communities. Upon the expiration or termination of this MOU, the DETROIT will notify the FTA and DDP Bike Share, which will relocate the Facilities as necessary and otherwise wind down the Program in the Local Communities accordingly. The Parties will perform all wind down activities in accordance with the terms of the Grant and any additional direction that the FTA may provide.

Section 11: Amendments. No amendment to this MOU will be effective unless it is in writing, expressly makes reference to this MOU, and is executed by a duly authorized representative of each of the Local Communities. All effective amendments to this MOU are hereby incorporated by reference into this MOU and are subject to all applicable general terms and conditions set forth herein.

Section 12: Notices. Notices, requests, notifications, and other communications (collectively, “Notices”) related to this MOU by either Party will be given in writing, signed by an authorized representative of the Party, and hand delivered, mailed by first-class mail or by overnight courier, or emailed with receipt confirmation enabled, and addressed as follows:

If to DETROIT:

Department: Detroit Dept of Transportation
Address 1: 1301 W. Warren Ave.
Address 2: Detroit, MI 48207
Attention: Angelica Jones
Email: angjon@detroitmi.gov

If to BERKLEY:

Organization: Berkley DDA
Address 1: 2838 Coolidge Hwy. #101
Address 2: Berkley, MI 48072
Attention: Andrew Gilbert, Board Chair
Email: andy@berkeleyeyewear.com

If to FERNDALE:

Department: City of Ferndale, MI
Address 1: 300 E. 9 Mile Rd.
Address 2: Ferndale, MI 48220
Attention: Joseph Gacioch
Email: jgacioch@ferndalemi.gov

If to HUNTINGTON WOODS:

Department: City of Huntington Woods, MI
Address 1: 26815 Scotia
Address 2: Huntington Woods, MI 48070
Attention: Amy Sullivan
Email: asullivan@hwmi.org

If to OAK PARK:

Department: City Manager
Address 1: 14000 Oak Park Blvd.
Address 2: Oak Park, MI 48237
Attention: Erik Tungate
Email: etungate@oakparkmi.gove

If to ROYAL OAK:

Department: City of Royal Oak, MI
Address 1: 211 S. Williams
Address 2: Royal Oak, MI 48067
Attention: James Krizan
Email: KrizanJ@romi.gov

Any Local Community may update its contact information set forth in this section by providing notice to the other Local Communities containing its updated contact information. Such update will not constitute an amendment to this Agreement and will not be subject to the procedures of Section 11 herein.

Section 13: Miscellaneous Terms.

- A. **Independent Parties.** The Local Communities understand and acknowledge that each is independent of the other and do not intend, as a result of this MOU or otherwise, to become a joint venture, partners, employees, servants, agents, representatives, contractors, or any type of related business entities to one another with respect to the Project or any other activities under this MOU.
- B. **Assignment.** This MOU sets forth each Local Community's intended activities in furtherance of the purpose of this MOU and no Local Community may delegate or assign its intended activities under this MOU, or any portion of this MOU, either voluntarily or involuntarily, or by operation of law, without the prior written approval of all other Local Communities.
- C. **No Third Party Beneficiaries.** Nothing in this MOU is intended to create, and should not be interpreted as creating, any third party beneficiaries to this MOU. DDP Bike Share is neither a party to this MOU nor a third party beneficiary of this MOU. To the extent that this MOU may envision that certain activities will be undertaken by DDP Bike Share, all such activities are so undertaken under authority of the MOA, which is not incorporated into this MOU in any way whatsoever.
- D. **Immunity.** Nothing in this MOU is intended to cause and must not be construed as, a waiver of governmental immunity as provided by law by any of the Local Communities.
- E. **Choice of Law and Venue.** The Local Communities acknowledge that this MOU will be governed by the laws of the State of Michigan, excluding its choice of laws rules. Any legal suit, action or proceeding arising out of this MOU will be instituted in the federal courts of the United States of America or the courts of the State of Michigan, and each Local Community irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding.
- F. **Merger.** This MOU sets forth the entire understanding between the Local Communities as to their activities in the purpose of this MOU and all and all prior discussions, negotiations,

communications, and understandings, whether written or verbal, are hereby merged into this MOU.

- G. **Conflict.** In the event that any provision of this MOU is determined to be in conflict with the terms of the Grant or the MOA, then the Grant and the MOA, as applicable, will control.
- H. **Severability.** In the event that any provision in this MOU is found by a court to be impermissible or illegal, then that provision shall be stricken from the MOU and shall be replaced by a provision that is permissible and legal and by mutual agreement of the Parties comes closest to expressing the intent of the stricken provision. The remainder of the MOU shall remain in full force and effect in accordance with its original overall intent.
- I. **Counterparts.** This MOU may be executed in multiple counterparts, each of which shall be deemed to be an original, all of which together shall constitute but one document. Each counterpart may be executed by facsimile or electronic signature, which will be deemed to be an original signature, to the extent permitted by Applicable Laws.
- J. **Effect.** Notwithstanding anything in this MOU, in law, in equity, or otherwise to the contrary, this MOU shall be of no force or effect and may not in any way be enforced against any of the Local Communities unless and until it is incorporated by reference into a separate Agreement that has been fully executed by a duly authorized agent of each of the Local Communities and adopted in accordance with its own approval procedures. Any amendments or modifications of such Agreement shall likewise be fully executed by a duly authorized agent of each of the Local Communities and adopted in accordance with its own approval procedures.

[Signatures appear on next page]

IN WITNESS WHEREOF, the Local Communities have executed this MOU as of the dates shown below, to be effective as of the Effective Date.

CITY OF DETROIT,
a Michigan municipal corporation
By: Angela Sims
Name: Angela Sims
Its: Interim Director
Date: 8/26/19

CITY OF HUNTINGTON WOODS,
a Michigan municipal corporation
By: _____
Name: _____
Its: _____
Date: _____

CITY OF FERNDALE,
a Michigan municipal corporation
By: _____
Name: _____
Its: _____
Date: _____

CITY OF OAK PARK,
a Michigan municipal corporation
By: _____
Name: _____
Its: _____
Date: _____

CITY OF BERKLEY,
a Michigan municipal corporation
By: _____
Name: _____
Its: _____
Date: _____

CITY OF ROYAL OAK,
a Michigan municipal corporation
By: _____
Name: _____
Its: _____
Date: _____

IN WITNESS WHEREOF, the Local Communities have executed this MOU as of the dates shown below, to be effective as of the Effective Date.

CITY OF DETROIT,
a Michigan municipal corporation
By: _____
Name: _____
Its: _____
Date: _____

CITY OF HUNTINGTON WOODS,
a Michigan municipal corporation
By: [Signature]
Name: Robert F Paul
Its: Mayor
Date: July 16, 2019

CITY OF FERNDALE,
a Michigan municipal corporation
By: _____
Name: _____
Its: _____
Date: _____

CITY OF OAK PARK,
a Michigan municipal corporation
By: _____
Name: _____
Its: _____
Date: _____

CITY OF BERKLEY,
a Michigan municipal corporation
By: _____
Name: _____
Its: _____
Date: _____

CITY OF ROYAL OAK,
a Michigan municipal corporation
By: _____
Name: _____
Its: _____
Date: _____

IN WITNESS WHEREOF, the Local Communities have executed this MOU as of the dates shown below, to be effective as of the Effective Date.

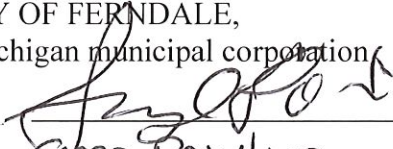
CITY OF DETROIT,
a Michigan municipal corporation

By: _____
Name: _____
Its: _____
Date: _____

CITY OF HUNTINGTON WOODS,
a Michigan municipal corporation

By: _____
Name: _____
Its: _____
Date: _____

CITY OF FERNDALE,
a Michigan municipal corporation

By:  _____
Name: Greg Pawlica
Its: Mayor Pro Tem
Date: 8/26/19

CITY OF OAK PARK,
a Michigan municipal corporation

By: _____
Name: _____
Its: _____
Date: _____

CITY OF BERKLEY,
a Michigan municipal corporation

By: _____
Name: _____
Its: _____
Date: _____

CITY OF ROYAL OAK,
a Michigan municipal corporation

By: _____
Name: _____
Its: _____
Date: _____

IN WITNESS WHEREOF, the Local Communities have executed this MOU as of the dates shown below, to be effective as of the Effective Date.

CITY OF DETROIT,
a Michigan municipal corporation

By: _____
Name: _____
Its: _____
Date: _____

CITY OF HUNTINGTON WOODS,
a Michigan municipal corporation

By: _____
Name: _____
Its: _____
Date: _____

CITY OF FERNDALE,
a Michigan municipal corporation

By: _____
Name: _____
Its: _____
Date: _____

CITY OF OAK PARK,
a Michigan municipal corporation

By: Marian McClellan
Name: MARIAN MCCLELLAN
Its: MAYOR
Date: 8-21-19

CITY OF BERKLEY,
a Michigan municipal corporation

By: _____
Name: _____
Its: _____
Date: _____

CITY OF ROYAL OAK,
a Michigan municipal corporation

By: _____
Name: _____
Its: _____
Date: _____

IN WITNESS WHEREOF, the Local Communities have executed this MOU as of the dates shown below, to be effective as of the Effective Date.

CITY OF DETROIT,
a Michigan municipal corporation

By: _____
Name: _____
Its: _____
Date: _____

CITY OF HUNTINGTON WOODS,
a Michigan municipal corporation

By: _____
Name: _____
Its: _____
Date: _____

CITY OF FERNDALE,
a Michigan municipal corporation


By: _____
Name: _____
Its: _____
Date: _____

CITY OF OAK PARK,
a Michigan municipal corporation

By: _____
Name: _____
Its: _____
Date: _____

BERKLEY DDA,
a Michigan Downtown Development

Authority

By:  _____
Name: Andrew Gilbert
Its: Board Chair
Date: 07.23.19

CITY OF ROYAL OAK,
a Michigan municipal corporation

By: _____
Name: _____
Its: _____
Date: _____

IN WITNESS WHEREOF, the Local Communities have executed this MOU as of the dates shown below, to be effective as of the Effective Date.

CITY OF DETROIT,
a Michigan municipal corporation

By: _____
Name: _____
Its: _____
Date: _____

CITY OF HUNTINGTON WOODS,
a Michigan municipal corporation

By: _____
Name: _____
Its: _____
Date: _____

CITY OF FERNDALE,
a Michigan municipal corporation

By: _____
Name: _____
Its: _____
Date: _____

CITY OF OAK PARK,
a Michigan municipal corporation

By: _____
Name: _____
Its: _____
Date: _____

CITY OF BERKLEY,
a Michigan municipal corporation

By: _____
Name: _____
Its: _____
Date: _____

CITY OF ROYAL OAK,
a Michigan municipal corporation

By: _____
Name: Michael C. Fournier
Its: Mayer
Date: 8-12-19

**Exhibit A:
Memorandum of Agreement
For Bicycle Share Program
Between
City of Detroit and DDP Bike Share Corporation**

[Attached]

**Exhibit B:
Local Community Match Funds**

Local Community	Anticipated Match Fund Contribution
Ferndale	\$48,096.00
Berkley	\$10,359.00
Huntington Woods	\$5,180.00
Oak Park	\$37,737.00
Royal Oak	\$36,997.00