

## BIKE OR SCOOTER-SHARE PERMIT

STATE OF TEXAS

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KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF COLLIN

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**THIS PERMIT AGREEMENT** is made and entered into by and between the **CITY OF PLANO, TEXAS**, a home-rule municipal corporation, hereinafter called Permitter or City and \_\_\_\_\_, a \_\_\_\_\_ corporation licensed in \_\_\_\_\_, hereinafter called Permittee. In consideration of the mutual covenants and agreements set forth herein, and other good and valuable consideration, City does hereby grant a bike-share or scooter-share permit.

This Permit is granted subject to the terms and conditions set out below:

1. Term. This Permit shall expire on **December 31, 2021**.
2. Use of City of Plano Public Right-of-Way. The City hereby grants permission to use the Right-of-Way on a non-exclusive basis, according to the terms of this Permit, solely for the purpose of offering bike or scooter sharing within the City. For purposes of this Permit, the term "Right-of-Way" means sidewalks, curbs, gutters, streets, alleys, roads and other pathways open to the public. The term "Bike Sharing" means the renting of bicycles and scooters on a short-term basis generally in exchange for compensation. This authorization is not a lease or an easement, and is not intended and shall not be construed to transfer any real property interest in City property.
3. Use of City of Plano Parks: The City hereby grants permission to use City of Plano Parks on a non-exclusive basis, according to the terms of this permit, solely for the purpose of offering Bike Sharing within the City. For purposes of this Permit, the term "Parks" refers to all improved hard-surface trails and shared use paths listed on the Plano Bicycle Transportation Plan and all improved hard-surfaced areas in Oak Point Park and Nature Preserve. This authorization is not a lease or an easement, and is not intended and shall not be construed to transfer any real property interest in City property.
4. Other City Property: The use of other City of Plano property for Bike Sharing may be appropriate (i.e. libraries, Saigling House, Municipal Center, etc.). The City Manager may authorize such use in a separate writing and may allow use of that property under the same terms as this Permit or different terms, at the City Manager's discretion and such writing shall be a part of this permit to the same extent as if it was set forth herein.
5. Use. Permittee customers may use the Right-of-Way and Parks for parking of bicycles and scooters owned and maintained by Permittee, and for riding Bicycle and Scooter Fleet bicycles and scooters. For purposes of this permit, the term "Bicycle and Scooter Fleet" refers to all bicycles and scooters owned by the Permittee operating in the City. Permittee shall not place or attach any personal property (other than bicycles and scooters), fixtures, or structures to Right-of-Way or Parks without the prior separate written consent of the City Manager and such writing shall be a part of this permit to the same extent as if it was set forth herein. Use of the Right-of-Way and Parks, and Permittee's operations within the City, shall, at a minimum:

- a. Not adversely affect the property of any third parties;
  - b. Not inhibit pedestrian movement or ADA access within Rights-of-Way, Parks and Other City Property; and
  - c. Not create conditions which are a threat to public safety and security.
6. Bicycles. All bicycles that are part of the Bicycle and Scooter Fleet shall:
- a. Meet the standards outlined in the Code of Federal Regulations (CFR) under Title 16, Chapter 11, Subchapter C, Part 1512 - Requirements for Bicycles (as amended). Additionally, permitted systems shall meet the safety standards outlined in ISO 43.150 - Cycles, subsection 4210 (as amended).
  - b. Meet the bicycle requirements in the Texas Transportation Code, including for lights and reflectors, and all other state, federal and local requirements.
  - c. Comply with all City of Plano regulations.
  - d. Have an emblem of Permittee, current contact information (including telephone number and email address for relocation requests) and a unique identifier prominently displayed on the bicycle.
  - e. Be high quality and sturdily built to withstand the effects of weather and constant use for at least five years.
  - f. Accommodate a wide range of users.
  - g. Be well-maintained and in good riding condition.
  - h. Not display third-party advertising.
7. Scooters. All scooters that are part of the Bicycle and Scooter Fleet shall:
- a. Meet the definition of Motor-assisted scooter” in Texas Transportation Code Section 551.351, as amended.
  - b. Comply with the Rules of the Road in Subtitle C of the Texas Transportation Code applicable to Motor-assisted scooters.
  - c. Comply with all City of Plano regulations.
  - d. Have an emblem of Permittee, current contact information (including telephone number and email address for relocation requests) and a unique identifier prominently displayed on the scooter.
  - e. Be high quality and sturdily built to withstand the effects of weather and constant use for at least five years.

- f. Accommodate a wide range of users.
- g. Be well-maintained and in good riding condition.
- h. Not display third-party advertising.

8. Bicycle and Scooter Parking. Permittee and the City will collaboratively identify designated bicycle and scooter parking zones to station bicycles in the Bicycle and Scooter Fleet and corral rebalanced bicycles (“Home Zones.”) In the event the parties cannot agree, the City Manager, or his designee, will be the final arbiter for designating Home Zones. The Home Zones will be identified on an up-to-date online map, to be maintained by Permittee, and available for viewing by the City at all times. Link and password, if any, to be provided at time of permit.

- a. Bicycles and scooters in the Bicycle and Scooter Fleet shall be parked on the sidewalk, or other hard surface, or at a public bicycle rack, or in a City Park, or at another City- owned location with prior written approval of the City.
- b. Bicycles and scooters in the Bicycle and Scooter Fleet shall be restricted to the following parking zones on the sidewalk:
  - i. Bicycles and scooters can only be parked on hard surfaces (e.g. concrete, asphalt or brick).
  - ii. Bicycles and scooters shall not be parked at the corners of sidewalks or within five (5) feet of crosswalks or curb ramps or within the visibility triangle as defined the City’s Thoroughfare Standards.
  - iii. Bicycles and scooters parked on sidewalks must not reduce the minimum ADA clear sidewalk width of thirty-six (36) inches.
  - iv. Bicycles and scooters shall not be parked on blocks where the sidewalk is less than forty-eight (48) inches in width.
  - v. On blocks without sidewalks, bicycles and scooters may be parked if the travel lane(s) and 6-foot pedestrian clear zone are not impeded.
  - vi. The City reserves the right to determine certain block faces where bicycle and scooter parking is prohibited.
  - vii. Bicycles and scooters shall not be parked in any way blocking:
    - 1. Transit stops, shelters or platforms;
    - 2. Commercial loading zones;
    - 3. Railroad tracks and crossings;
    - 4. Passenger loading zones or valet parking service areas;
    - 5. Disabled parking zone;
    - 6. Street furniture that requires pedestrian access (for example - benches, parking pay stations, etc.);
    - 7. Curb ramps;
    - 8. Entryways; and
    - 9. Driveways.
  - viii. Bicycles and scooters parked in residential areas that do not impede pedestrian travel will be allowed to remain in place for up to forty-eight (48) hours after they are parked. However, upon receiving any complaint or request for removal, Permittee shall respond in the time

periods as outlined in Section 16.

- c. Bicycles and scooters in Parks must be parked to allow sufficient width for accessible pedestrian travel.
- d. Bicycles and scooters may be parked on private property only with the permission of the private property owner.
- e. Bicycles and scooters shall stand upright when parked.
- f. With the advance approval of the City, Permittee may indicate virtual bicycle and scooter racks with paint or decals where appropriate to guide riders to these preferred, though not required, parking zones in order to assist with orderly parking of bicycles and scooters throughout the City. The City, at its own discretion, may choose to support bike and scooter sharing with the installation of additional bicycle and scooter racks or designated bicycle and scooter parking zones.
- g. Permittee may remove Home Zones at their discretion; however, Permittee shall remove Home Zones upon City request.
- h. Permittee will actively manage the Bicycle and Scooter Fleet to ensure orderly parking and the free and unobstructed use of the Right-of-Way and Parks. Any bicycle or scooter that is parked improperly shall be re-parked in a correct manner or shall be removed by Permittee within the timeframe as outlined in Section 16.

9. Communication with City. Permittee shall provide the City with a current contact name and phone number for staff that are capable of relocating, rebalancing, removing, and repairing their Bicycle Fleet. Permittee shall notify City of any changes to contact information within 24-hours.

10. Customer Communication. Permittee shall:

- a. Educate users regarding laws applicable to riding and operating a bicycle and scooter in the City of Plano.
- b. Notify customers that bicyclists and scooter riders shall not ride on sidewalks in Downtown Plano, Legacy Town Center District, and Memorial Park.
- c. Instruct customers on how to park a bicycle and scooter legally and properly.
- d. Provide a mechanism for customers to easily and quickly notify the company that there is a safety or maintenance issue with the bicycle or scooter, such as in the mobile application.
- e. Maintain a 24-hour customer service phone number for customers to report safety concerns or complaints, or ask questions.

- f. At the discretion of the City, distribute a customer survey developed by the City before the end of the term.
- g. With direction and guidance from the City, lead outreach efforts to business associations, major developers and property managers, community groups and other key stakeholders, to solicit input on the location of bicycle and scooter Home Zones, program operations and program feedback.

11. Condition of City of Plano Right-of-Way and Parks

- a. City makes the Right-of-Way and Parks available to Permittee in an "AS IS" and "WITH ALL FAULTS" condition. City makes no representations or warranties concerning the condition of the Right-of-Way and Parks or its suitability for use by Permittee or its customers, and assumes no duty to warn either Permittee or its customers concerning conditions that exist now or may arise in the future
- b. City assumes no liability for loss or damage to Permittee's bicycles, scooters, or other property. Permittee agrees that City is not responsible for providing security at any location where Permittee's bicycles and scooters are stored or located, and Permittee hereby waives any claim against City in the event Permittee's bicycles and scooters or other property are lost or damaged.

12. Maintenance and Care of portion of Right-of-Way and Parks: Permittee expressly agrees to repair, replace or otherwise restore any part or item of real or personal property that is damaged, lost or destroyed as a result of the Permittee's use of Right-of-Way, Parks and other City Property. Should Permittee fail to repair, replace or otherwise restore such real or personal property, Permittee expressly agrees to pay City's costs in making such repairs, replacements or restorations.

13. Operations & Maintenance. Permittee shall be responsible to maintain the Bicycle and Scooter Fleet. Permittee shall be solely responsible for all maintenance and service costs in order to maintain the Bicycle and Scooter Fleet and associated maintenance to minimum level of service and reporting as outlined in Section 16.

- a. The City will notify Permittee of any bicycle or scooter that is found adversely affecting the Right-of-Way or Parks. Permittee shall be responsible to correct improperly parked bicycles within the timeframes outlined in Section 16.
- b. Any inoperable bicycle or scooter, or any bicycle or scooter that is not safe to operate shall be removed from the Right-of-Way within 24 hours after notice from the City, and shall be repaired before the bicycle or scooter is returned to revenue service.
- c. Permittee shall give the City special rights access, via Permittee's app or other device, to immediately unlock and remove bicycles and scooters blocking access to the Right-of-Way or Parks.

- d. Any bicycle or scooter found and retrieved by the City in a stream, lake, or other water body shall be deemed unsalvageable and may be immediately discarded.

14. Research. Permittee agrees that the City may use a third-party researcher/vendor to evaluate the bike share program. Permittee will share data including access to a documented web-based application programming interface (API) with the third-party researcher /vendor for purposes of evaluating or enforcing the requirements of this program.

15. Hours of Operation. Permittee agrees that hour of operation for scooters shall be from 5 AM to 9 PM. Scooters shall not be available for rent after 9 PM. Permittee shall use technology to make scooters inaccessible and shown unavailable in online application.

16. Level of Service. Permittee must meet the Minimum Performance Standards shown in the table below. Additionally, Permittee shall provide reports monthly as described in Measurement Tools below to the City in order to help the City measure the success of the bike sharing program in serving its residents and visitors and improving the livability and mobility of City of Plano residents and visitors.

<b>Minimum Performance Standard</b>	<b>Measurement Tools</b>
<u>Customer Service:</u> The app will be operational 99.5% of the time (uptime).	Uptime reporting.
<u>Distribution &amp; Usage:</u> Fleet will focus on serving people in the City of Plano.  No more than 3 bikes and 4 scooters deployed in a Home Zone without consent of City.	Maps showing aggregate/heat map usage patterns.
<u>Bicycles and Scooters in Service:</u> Number of bicycles and scooters shall be commiserate commensurate with expected level of service.	Daily uptime reports showing number of bicycles and scooters in service.

<p><b><u>Minimum Performance Standard (cont)</u></b></p> <p><u>Rebalancing:</u></p> <p>General rebalancing shall occur no less than weekly.</p> <p>Upon request or complaint, bicycles and scooters will be relocated or rebalanced within two (2) hours of receiving notice, Monday-Friday from 8am-8pm, not including State and Federal holidays. At all other time, within 24 hours of receiving notice.</p>	<p>Log containing number of requests for rebalancing and response time.</p>
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17. Data Reporting and Sharing.

Permittee shall provide the City with real time information for every unit in service in the City of Plano through a documented web-based application programming interface (API). The API data shall include the following but not limited to:

- a. Point Location
- b. Unit Identification Number
- c. Type of Unit
- d. Charge Level if available

Permittee shall not require users to grant location services to use the mobility app. All other private data belonging to user, including but not limited to contacts, photos, and files, shall not be required to be shared in order to use the mobility app.

Permittee shall provide the Director with updates to the terms of service, including but not limited to the privacy policy, terms, and conditions of use and the End User License Agreement published on the permittee website and app and agrees to provide all customers and the City any changes in the terms of service immediately upon adoption.

18. Required Reports. Permittee shall cooperate with the City in the collection and analysis of aggregated data concerning its operations. The Permittee will provide reports at the City's request. Such reports will include, but not be limited to:

- a. Aggregated breakdown of customers using bicycles and scooters in City as to whether they are Plano residents or not.
- b. Number of reported collisions, and primary collision factor, if available.
- c. Within City boundaries: the total number of trips taken per day, total number of trips by hour of the day, plus monthly and cumulative totals.
- d. Number of complaints (with locations) received along with estimated time to

address the complaints

- e. At least once during the period, Permittee will conduct a survey of its users in the City focused on age and will provide aggregated data to the City. Age will be reported into these age groups: 5-17, 18-24, 25-34, 35-44, 45-54, 55-64, 65 and over.

19. Nonexclusive Permit. This Permit is nonexclusive and is subject to (i) any existing utility, drainage, or other facility located in, under, or upon the Right-of-Way or Park; (ii) to any existing permit, easement or other similar interest granted by City to any individual, corporation or other entity, public or private; and (iii) to all other matters of record.

20. Superior Right. This Permit is subject and subordinate to the prior and continuing right of City, its successors and assigns to use all of the public property for the public benefit. City, for itself and other permitted users, reserves full rights, consistent with the rights herein granted.

21. Revocable. This Permit is revocable and may be terminated by either party for convenience upon thirty (30) days written notice.

22. Permit Fee. Permittee shall pay City the sum of **FIVE HUNDRED AND NO/100 DOLLARS (\$500.00)** upon submission of application.

All permit payments shall reference this Bike-Share Permit on the check and shall be paid to City at the following address:

City of Plano, Texas  
Attention: Accounting Department  
P. O. Box 860279  
Plano, TX 75086-0358

23. Escrow Accounts. Upon submission of application, the Permittee must provide \$5,000.00 in cash per 1,000 bicycles or scooters (not prorated) that the City will hold in escrow for the term of this Permit. In the event of default and termination as described in Section 27 below, the City may use such funds to remove or dispose of the Bicycle and Scooter Fleet or any part thereof or repair City property that was damaged by the Permittee or its customers or invitees. At the conclusion of the term of this Permit, the City will return such funds to Permittee or its designee within thirty days after the City receives a written request for a refund from the Permittee.

24. Liability Insurance. During the permit term Permittee shall maintain a policy of general liability insurance at Permittee's expense insuring Permittee against liability assumed by Permittee hereunder and insuring Permittee and City against liability arising out of or in any way incident to use or occupancy of City property. Such policy or policies shall provide that the policy is primary and shall apply without regard to other policies separately carried. The initial amount of required insurance shall be at least \$1,000,000.00 Combined Single Limit for Personal Injury, Bodily Injury including death and Property Damage and shall be subject to period increases based upon inflation, recommendation of professional insurance advisors, and other relevant factors.



City, its elected officials, officers, agents and employees must be named as an additional insured under all liability insurance policies required by this Permit. All policies shall be endorsed to provide a waiver of subrogation in favor of the City. All policies shall be endorsed to include the following provision: "It is agreed that this policy is not subject to cancellation, nonrenewal, material change, or reduction in coverage until ten (10) days prior written notice has been given to the City Manager of the City of Plano." The insurance carrier must be authorized to do business in the State of Texas and the must be rated A- or better by AM Best rating. A certificate of insurance reflecting the required coverage shall be presented to City prior to City's approval and execution of this Permit. Subsequent certificates of insurance shall be provided to City whenever Permittee renews, changes or amends their insurance policies or upon request by City.

**25. Indemnity. Permittee shall defend, indemnify, protect and hold City, its officers, directors, parents, subsidiaries, affiliates, agents, servants and employees harmless from and against any and all claims, expenses (including but not limited to attorney's fees), demands, judgments and causes of action of every kind and character, including but not limited to claims in contract, tort, including negligence, or strict liability arising in favor of any person (including but not limited to employees, servants, agents, customers or invitees of Permittee) or entity for personal injury, bodily injury, including death, or damage to property whether or not arising from the sole or concurrent negligence or fault of City or employees or independent contractors directly responsible to City arising out of, incident to, or in anyway connected with Permittee's exercise of rights herein granted or obligations pursuant thereto, including but not limited to separate operations being performed on City property or any condition of City property.**

26. Compliance With Law. Permittee shall, at its own cost and expense, comply with all applicable laws, including but not limited to existing zoning ordinances, governmental rules and regulations enacted or promulgated by any governmental authority and shall promptly execute and fulfill all orders and requirements imposed by such governmental authorities for the correction, prevention and abatement of nuisances in or upon or connected with said premises because of Permittee's use thereof. Permittee shall also comply with all laws and regulations pertaining to hazardous waste, hazardous materials and the environment.

27. Condition Upon Termination. Upon termination of this Permit due to default or convenience to the Permittee, Permittee shall immediately vacate the Right-of-Way and Parks, removing all improvements and personal property so as to return the Right-of-Way and Parks to the condition in which they existed on the date this Permit was executed. All personal property not removed at City's request shall become City's property at no cost or expense to City. Upon termination of this Permit for default of or convenience to the City, Permittee shall have fourteen calendar days to remove all improvements and personal property so as to return the Right-of-Way and Parks to the condition in which they existed on the date this Permit was executed. All person property not removed at the City's request at the end of the fourteen-day period shall become City's property at no cost or expense to City.

28. Assignment and Subletting. This Permit is personal to Permittee and may not be sold, transferred, assigned or sublet without prior written approval by an authorized representative of City.

29. Notices. All written notices required under this Permit must be hand delivered or sent by certified mail, return receipt requested, and addressed to the proper party at the following addresses:

**CITY**

City of Plano, Texas  
Attention: City Manager  
P. O. Box 860358  
Plano, TX 75086-0358

with copy to:

City of Plano, Texas  
Attention: City Attorney  
P. O. Box 860358  
Plano, TX 75086-0358

**PERMITTEE**

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Each party may change the address to which notices are to be sent by giving the other party notice, within ten (10) days, of the new address in the manner provided by this paragraph.

30. Default. It is understood and agreed that, in case of default by Permittee in any of the terms and conditions herein stated and such default continues for a period of ten (10) calendar days after City notifies Permittee of such default, City may, at its election, terminate this Permit and upon such termination all rights of the Permittee hereunder shall cease and come to an end. If such termination results from Permittee's default there shall be no prorated refund to Permittee of the permit fee for the then current term; however, in the event that termination of this Permit is for the convenience, City shall refund to Permittee the prorated portion of the permit fee for the then current term. If Permittee files for bankruptcy it shall be a default under this Permit, City may waive this default in writing at its discretion.

31. Prior Agreements. This Permit constitutes the sole and only agreement of the parties and supersedes any prior understandings or written or oral agreements between the parties respecting the subject matter of this Permit.

32. Texas Law. This Permit shall be construed under, and in accordance with, the laws of the State of Texas. Venue shall lie in Collin County, Texas.

33. Amendment. No amendment, modification, or alteration of the terms of this Permit shall be binding unless it is in writing, dated subsequent to this Permit, and duly executed by the parties to this Permit.

34. Authority to Sign. The undersigned officers and/or agents of the parties hereto are the properly authorized officials and have the necessary authority to execute this Permit on behalf of the parties hereto.

**EXECUTED** as of the \_\_\_\_\_ day of \_\_\_\_\_, 2021.

CITY

**CITY OF PLANO, TEXAS**  
**a home-rule municipal corporation**

By: \_\_\_\_\_  
Caleb Thornhill  
Director of Engineering

PERMITTEE

\_\_\_\_\_ Corporation

By: \_\_\_\_\_  
Name  
Title