

Terms Sheet

Lessor: City of Austin-Public Works

Lessee: Yellow Bike Project

Location: 1200 Webberville Rd.

Legal: A PORTION OF ABS 22 SUR 29 TANNEHILL J C ACR 2.804 (See Attachment "A").

Term: Fifty (50) year lease with option of two twenty-five (25) year renewals.

Consideration: \$10 and other good and valuable consideration. In order to give back specific services to the City of Austin in return for the use of land on which to build YBP's new headquarters, YBP will commit to three bicycle maintenance classes or Road 1 bicycling courses certified by the League of American Bicyclists per year for City employees. These are 12 week sessions, Spring, Summer and Fall. They will occur at an agreed upon venue and time once per week. YBP will also continue donating at least 100 kids' bikes to area schools through its "Bikes to Schools" program per year, and running its after-school youth programs at Kealing and Bedicheck Middle Schools; in addition, YBP plans to work closely with its new neighbors at Sims Elementary School.

Insurance Requirements:

ARTICLE 1 Licensee's Insurance Requirements

1.1. General Requirements: Lessee shall carry insurance in the types and amounts indicated below for the term of the Lease.

Within five (5) days of the execution of this Lease, Lessee shall obtain the required insurance and provide the City a Certificate of Insurance as proof of coverage. If coverage period ends during the term of the Lease, Lessee must, prior to the end of the coverage period, forward a new Certificate of Insurance to City as verification of continuing coverage for the duration of this Lease.

Approval of insurance by the City and the required minimums does not relieve or decrease the liability or responsibility of the Lessee hereunder and will not be construed to be a limitation of liability on the part of the Lessee.

Insurance coverage must: (a) be written by companies licensed to do business in the State of Texas at the time the policy is issued, and (b) with an A.M. Best rating of B+VII or better.

All endorsements naming the City as additional insured, waivers, and notices of

cancellation endorsements as well as the Certificate of Insurance shall indicate:

City of Austin Real Estate Services
Attention: Property Management
505 Barton Springs Road. Suite 1350
Austin, Texas 78704

The "Other" insurance clause does not apply to the City where the City is an additional insured shown on any policy. It is intended that policies required in this Lease, covering both the City and Lessee, will be considered primary coverage as applicable.

If insurance policies are not written for amounts specified below, Lessee shall carry Umbrella or Excess Liability Insurance for any differences in amounts specified. If Excess Liability Insurance is provided, it must follow the form of the primary coverage.

City shall be entitled, upon request and without expense, to receive certified copies of policies and endorsements thereto and may make any reasonable requests for deletion or revision or modification of particular policy terms, conditions, limitations, or exclusions except where policy provisions are established by law or regulations binding upon either of the parties hereto or the underwriter on any such policies.

City reserves the right to review the insurance requirements set forth during the effective period of this Lease and to make reasonable adjustments to insurance coverage, limits, and exclusions when deemed necessary and prudent by City based upon changes in statutory law, court decision, the claims history of the history of the industry or financial condition of the insurance company as well as the Lessee.

Lessee shall not cause or permit any insurance to lapse or to be canceled during the term of this Lease.

Lessee shall be responsible for premiums, deductibles and self-insured retention's, if any, stated in policies. All deductibles or self-insured retention's will be disclosed on the Certificate of insurance.

1.2 Specific Coverages:

Commercial General Liability Insurance:

The Policy must contain the following provisions:

- a) Blanket contractual liability coverage for liability assumed under the Temporary Use Agreement and all contracts relative to this Temporary Use Agreement
- b) Independent Contractors coverage
- c) City listed as an additional insured, endorsement CG 2010

- d) Thirty (30) Day Notice of Cancellation in favor of City, endorsement CG 0205
- e) Waiver of Transfer of Recovery Against Others in favor of City, endorsement CG 2404

Provide coverage's A & B with minimum limits as follows:

A combined bodily injury and property damage limit of \$1,000,000 per occurrence.

ARTICLE 2 Lessor's Commercial General Liability Insurance

2.1 Lessee understands that Lessor is a self-insurer and does not maintain commercial general liability insurance coverage.

ARTICLE 3 Requirements for Contractors performing work on the Premises

3.1 General Requirements:

Contractor's insurance coverage must be written by companies: (a) licensed to do business in the State of Texas at the time the policies are issued, and (b) with an A.M. Best rating of B+VII or better.

All endorsements such as additional insured, waivers, and notices of cancellation endorsements as well as the attached certificate shall indicate naming the City of Austin as follows:

City of Austin Real Estate Services
Attention: Property Management
505 Barton Springs Road, Suite 1350
Austin, Texas 78704

The "other" insurance clause does not apply to the City where the City of Austin is an additional insured shown on any policy. It is intended that policies required in the Contract, covering the City and the Contractor, will be considered primary coverage as applicable.

If insurance policies are not written for amounts specified above, Contractor shall carry Umbrella or Excess Liability Insurance for any differences in amounts specified. If Excess Liability Insurance is provided, it must follow the form of the primary coverage.

The City shall be entitled, upon request and without expense, to receive certified copies of policies and endorsements thereto and may make any reasonable requests for deletion or revision or modification of particular policy terms, conditions, limitations, or exclusions except where policy provisions are established by law or regulations binding upon either of the parties hereto or the underwriter on any such policies.

The City reserves the right to review the insurance requirements set forth during the effective period of this Temporary Use Agreement and to make reasonable adjustments to insurance coverage, limits, and exclusions when deemed necessary and prudent by the City based upon changes in statutory law, court decisions, the claims history of the industry or financial condition of the insurance company as well as the Contractor.

The Contractor shall not cause any insurance to be canceled nor permit any insurance to lapse during the term of the Contract or as required in the Contract.

The Contractor shall be responsible for premiums, deductibles and self-insured retention's, if any, stated in policies. All deductibles or self-insured retention's will be disclosed on the certificate of insurance attached.

The Contractor shall provide the City thirty (30) days written notice of erosion of the aggregate limits below occurrence limits for all applicable coverages indicated within the Contract.

If City owned property is being transported or stored off-site by the Contractor, then the appropriate property policy will be endorsed for transit and storage in an amount sufficient to protect the City's property.

The insurance coverages required under this contract are required minimums and are not intended to limit the responsibility or liability of the Contractor.

3.2 Specific Coverages: Insurance Requirements for any agreements containing provisions for contractors cleaning, maintaining, repairing or working on Premises:

Contractor shall carry insurance in the types and amounts indicated below for the duration of the Contract, which includes items owned by the City in the care, custody and control of the Contractor prior to and during the period during which services are provided.

(1) Workers' Compensation and Employers' Liability coverage with limits consistent with statutory benefits outlined in the Texas Workers' Compensation Act (Section 401) and minimum policy limits for employers liability of \$100,000 bodily injury each accident, \$500,000 bodily injury by disease policy limit and \$100,000 bodily injury by disease each employee. The City will accept workers' compensation coverage written by the Texas Workers Compensation Insurance Fund.

The Contractor's policy must apply to the State of Texas and include these endorsements in favor of the City of Austin:

- (a) Waiver of Subrogation, form WC 420304
- (b) 30 day Notice of Cancellation, form WC 420601

(2) Commercial General Liability Insurance with a minimum bodily injury and property damage per occurrence limit of \$500,000 for coverages A & B. The policy must contain the following provisions:

(a) Blanket contractual liability coverage for liability assumed under this contract and all contracts relative to this Temporary Use Agreement.

(b) Completed Operations/Products Liability for the duration of the Warranty period

(c) Explosion, Collapse, and Underground (X, C, & U) coverage.(d) Independent Contractors coverage.(e) City of Austin shown as an additional insured, endorsement CG 2010.

(f) 30 day notice of cancellation in favor of the City of Austin; endorsement CG 0205.

(g) Waiver of Transfer Right of Recovery Against Others in favor of the City of Austin, endorsement CG 2404.

(3) Business Automobile Liability Insurance for all owned, non-owned and hired vehicles with a minimum combined single limit of \$500,000 per occurrence for bodily injury and property damage. Alternate acceptable limits are \$250,000 bodily injury per person, \$500,000 bodily injury per occurrence and at least \$100,000 property damage liability per accident. The policy shall contain the following endorsements in favor of the City of Austin:

(a) Waiver of Subrogation endorsement TE 2046A

(b) 30 day Notice of Cancellation endorsement TE 0202A

(c) Additional Insured endorsement TE 9901B

Construction & Maintenance: Yellow Bike will construct the fence and building in accordance with City of Austin regulations and ADA Requirements. Yellow Bike will maintain the site. Yellow Bike Contractors will carry the City of Austin as an additional insured.