



COMMISSION AGENDA ITEM
DOCUMENT ROUTING FORM

① ✓ 6/29/16 L

Today's Date: 6/23/16

DOCUMENT TITLE: Fifth Amendment to Permit and License Agreement (Revocable License)

COMM. MTG. DATE: 6/21/16 CAM #: 16-0650 ITEM #: CM-19 CAM attached: ☐ YES ☒ NO

Routing Origin: CAO Router Name/Ext: Shaniece Louis / Ext. 5036

CIP FUNDED: ☐ YES ☒ NO

Capital Investment / Community Improvement Projects defined as having a life of at least 10 years and a cost of at least \$50,000 and shall mean improvements to real property (land, buildings, or fixtures) that add value and/or extend useful life, including major repairs such as roof replacement, etc. Term "Real Property" include: land, real estate, realty, or real.

2) City Attorney's Office # of originals attached: 1 Approved as to Form: ☒ YES ☐ NO

Date to CCO: 6/23/16 RBD
Initials

5) City Clerk's Office: # of originals: 1 Routed to: Gina Ri/CMO/X5013 Date: 6/23/16

6) City Manager's Office: CMO LOG #: 11152 Date received from CCO: 6/24/16

Assigned to: L. FELDMAN ☒ S. HAWTHORNE ☐ C. LAGERBLOOM ☐
L. FELDMAN as CRA Executive Director ☐

☐ APPROVED FOR LEE FELDMAN'S SIGNATURE ☐ N/A FOR L. FELDMAN TO SIGN

PER ACM: S. HAWTHORNE (Initial/Date) C. LAGERBLOOM

(Initial/Date) ☐ PENDING APPROVAL (See comments below)

Comments/Questions: _____

Forward 1 originals to ☒ Mayor ☐ CCO Date: 6/27/16

7) Mayor/CRA Chairman: Please sign as indicated. Forward _____ originals to CCO for attestation/City seal (as applicable) Date: _____

INSTRUCTIONS TO CLERK'S OFFICE

City Clerk: Retains 1 original and forwards 1 copy to: Shaniece Louis / CAO / Ext. 5036 (Name/Dept/Ext)

Attach _____ certified Reso # _____ ☐ YES ☒ NO Original Route form to CAO

**FIFTH AMENDMENT
TO
PERMIT AND LICENSE AGREEMENT
(REVOCABLE LICENSE)**

THIS IS A FIFTH AMENDMENT to the Revocable License granted this 21st day of June, 2016 by and between:

CITY OF FORT LAUDERDALE, a Florida municipal corporation,
100 North Andrews Avenue, Fort Lauderdale, Florida 33301,
hereinafter, "CITY",

and

B-cycle, LLC, a Delaware Limited Liability Company authorized to
do business in the State of Florida, whose principal address is 801
WEST Madison Street, Waterloo, WI 53594, hereinafter
"LICENSEE".

WHEREAS, CITY granted LICENSEE a Revocable License on July 6, 2011 for the implementation, installation, operation, maintenance, repair and replacement, from time to time of the Bicycle-Sharing Stations on Property described in said Revocable License; and

WHEREAS, pursuant to Motion at the City Commission meeting of August 21, 2012, CITY and LICENSEE entered into a First Addendum to Revocable License which provided for the expansion of the B-cycle Sharing Stations; and

WHEREAS, pursuant to Motion at the City Commission meeting of January 7, 2014, CITY and LICENSEE entered into a Second Addendum to Revocable License which provided for the expansion of the B-cycle Sharing Stations; and

WHEREAS, the City Commission on March 4, 2014 reviewed proposed plans for renovations of the bike station at D.C. Alexander Park. LICENSEE is aware that subsequent relocation of the D.C. Alexander Park bike station will be at LICENSEE'S expense; and

WHEREAS, the City Commission of the City of Fort Lauderdale has authorized the execution of this Third Amendment to the Revocable License by the proper government officials by adoption of a motion at its Regular Meeting of April 15, 2014; and

WHEREAS, the City Commission of the City of Fort Lauderdale authorized execution of the Fourth Amendment to the Revocable License by the proper government officials by adoption of a Motion at its Regular Meeting of February 3, 2015; and

WHEREAS, B-cycle has sought permission for the installation of an additional Sharing Station in South Beach Lot #2, approximately fifty (50) feet East from the North point of the B-Ocean Property located on the North side of the parking lot wall; and

WHEREAS, the City Commission finds that amending the Revocable License to provide for an additional Sharing Station serves a valid municipal purposes;

WHEREAS, the City Commission by Motion adopted at its Regular Meeting of December 15, 2015 authorized execution of the Fifth Amendment of the Revocable License by the proper City officials;

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained in this Third Amendment to the Revocable License, and other good and valuable conditions, the receipt and adequacy of which are hereby acknowledged, the parties agree to amend the Revocable License as follows:

1. **Recitals.** The foregoing recitals are true and correct and are hereby ratified, confirmed and incorporated herein.

2. Section 2, entitled *Defined Terms* is hereby amended to read as follows:

2. **Defined Terms.** The following terms, as used and referred to herein, shall have the meanings set forth below, unless the context indicates otherwise:

. . .

License Area(s) means those areas shown in the attached Composite Exhibits A-1 through A-11 as set forth in that Permit and License Agreement (Revocable License) dated July 2, 2011, and Exhibits A-12 and A-13 as set forth in the First Addendum to Revocable License, dated August 21, 2012 and Exhibits A-14, A-15 & A-16, as set forth in this Second Amendment to Permit and License Agreement (Revocable License) dated January 7, 2014, all where Project Improvements will be constructed, installed, operated, repaired, replaced, from time to time and maintained. The areas shown within the License Areas identified as in the Third Amendment as Composite Exhibits A-1 through A-17 are within City owned real property or upon public rights-of-way within the CITY's jurisdiction under the Florida Transportation Code. The area shown within License Area A-20 in the Fourth Amendment to the Revocable License (East Sunrise Boulevard, South side, approximately 750 feet East of Bayview Drive) is within the roadway jurisdiction of the State of Florida Department of Transportation and therefore does not require the issuance of Engineering Permits by the City of Fort Lauderdale. Composite Exhibit A-20 is being presented herein for information purposes only. The areas shown within the License Area identified in this Fifth Amendment as Composite Exhibit A-21 are within CITY owned real property or upon public rights-of-way within the CITY's jurisdiction under the Florida Transportation Code.

3. Section 4, entitled License Areas; General Locations, is amended to include License Area A-21 B-cycle Station as more particularly set forth below and as attached hereto:

4. **Project Site Plan Approval Process.** The License Areas are generally located as set forth in the following Composite Exhibits:

- A-1 Seventeenth Street Causeway - West Underdeck
- A-2 Galt Ocean Mile - Beach Community Center
- A-3 S.E. Fifth Street adjacent to D.C Alexander Park
- A-4 Earl Lifshey Ocean Park
- A-5 Esplanade Park (Alternate "A")
- A-6 George English Park
- A-7 Art Serve Library at Holiday Park
- A-8 Las Olas Marina
- A-9 CRA Property abutting Las Olas Circle & East Las Olas Blvd. (Option #1)
- A-10 Sebastian Street Parking Lot
- A-11 Willingham Park
- A-12 Expanded Sebastian Street Parking Lot
- A-13 Expanded Willingham Park
- A-14 Fort Lauderdale Beach South (640 Seabreeze Boulevard)
- A-15 Oceanside Parking Lot
- A-16 Northwest Quadrant of the intersection of Bayshore Drive and State Road A-1-A
- A-17 D.C. Alexander Park on S.E. 5th Street
- A-18 East Las Olas Boulevard & S.E. 10th Terrace
- A-19 Fort Lauderdale Beach Park (f/k/a South Beach Municipal Parking Lot)
- A-20 E. Sunrise Boulevard, South side approximately 750 feet South of Bayview Drive.
- A-21 South Beach Lot #2 (f/k/a South Beach Municipal Parking Lot) approximately 50 feet East from the North point of the B-Ocean (f/k/a Yankee Clipper) property, located on the North side of the parking lot wall.

N.B.#1 The location of A-20 is within the State of Florida, Department of Transportation ("FDOT") roadway jurisdiction. Accordingly, A-20 is not subject to City of Fort Lauderdale Engineering Permits. Permitting for A-20 is the responsibility of FDOT."

N.B.#2 As a condition of A-21, South Beach Lot #2, all bikes shall be removed from the station during special outdoor events in the area. Special outdoor events in the area refer to every event approved by the City Commission in the vicinity of South Beach Lot #2 and Fort Lauderdale Beach Park Area. Special outdoor events subject to this condition shall also include events approved by the Director of Parks and Recreation or his/her designee. Such events include, but are not limited to:

- Outdoor concerts
- Athletic events
- January – Swatch Volleyball
- February – Pride Fort Lauderdale
- March – Fort Lauderdale Aids Walk & Music Festival
- April – Tortuga Festival; Easter Sunrise Service
- May – EVP Volleyball; Lauderdale Air Show

- July – July 4th on the beach; Dig the Beach Volleyball
- November – Fort Lauderdale Boat Show
- December – Rip Tide Music Festival

4. The Effective Date of this Fifth Amendment shall be upon full execution by the parties after execution hereof is authorized by the City Commission.

5. This Fifth Amendment to the Revocable License shall be recorded at LICENSEE'S sole cost and expense in the Public Records of Broward County, Florida and a copy thereof shall be filed with the City Clerk's Office and the City Attorney's Office of the City.

6. In the event and to the extent of conflict between the terms and conditions of this Fifth Amendment and the terms and conditions of the underlying Revocable License, as previously amended by the previous Amendments and Addendum, then, to the extent of such conflict the terms and conditions of this Fifth Amendment shall supersede and prevail over the terms and conditions of the underlying Revocable License, as previously amended.

7. Subject to the terms hereof, CITY and LICENSEE ratify and confirm the Revocable License, as amended by and through the First Amendment through to the Fifth Amendment.

IN WITNESS OF THE FOREGOING, the parties have set their hands and seals the day and year first above written.

CITY:

WITNESSES:

CITY OF FORT LAUDERDALE, a municipal corporation of the State of Florida:

Jeanette A. Johnson
Jeanette A. Johnson

Witness Print Name

Gina Rizzuti-Smith
Gina Rizzuti-Smith

Witness Print Name

(CORPORATE SEAL)

By John P. "Jack" Seiler
JOHN P. "JACK" SEILER, Mayor

By Lee R. Feldman
LEE R. FELDMAN, City Manager

ATTEST: Jeffrey A. Modarelli
JEFFREY A. MODARELLI, City Clerk

[Handwritten signature]

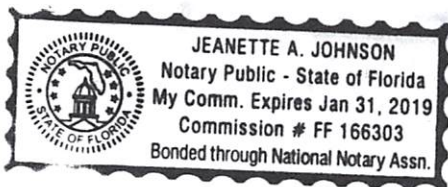
Approved as to form:
CYNTHIA A. EVERETT, City Attorney

By: *Robert B. Dunckel*
ROBERT B. DUNCKEL
Assistant City Attorney

STATE OF FLORIDA:
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this 28th day of June, 2016, by JOHN P. "JACK" SEILER, Mayor of the City of Fort Lauderdale, a municipal corporation of Florida. He is personally known to me and did not take an oath.

(NOTARY SEAL)



Jeanette A. Johnson
Notary Public, State of Florida
(Signature of Notary taking Acknowledgment)

Jeanette A. Johnson
Name of Notary Typed,
Printed or Stamped

My Commission Expires: 1/31/19

Commission Number FF 166303

STATE OF FLORIDA:
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this 27th day of June, 2016, by LEE R. FELDMAN, City Manager of the City of Fort Lauderdale, a municipal corporation of Florida. He is personally known to me and did not take an oath.

(NOTARY SEAL)



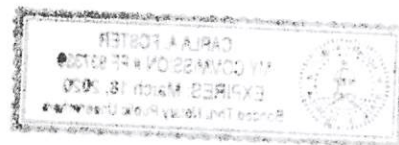
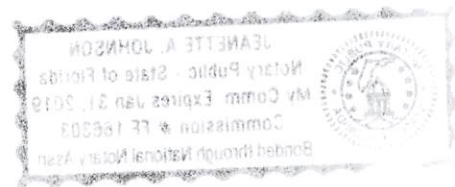
Carla Foster
Notary Public, State of Florida
(Signature of Notary taking Acknowledgment)

Carla Foster
Name of Notary Typed,
Printed or Stamped

My Commission Expires:

Commission Number

QBD



LICENSEE:

B-cycle, LLC, a Delaware Limited Liability Company authorized to do business in the State of Florida

By: TREK BICYCLE CORPORATION, a Wisconsin corporation, in its capacity as Manager for B-cycle, LLC

By: [Signature]
Bob Burns, President

WITNESSES:

[Signature]
Brian Conger
[Witness print or type name]

[Signature]
Eric Johnson
[Witness print or type name]

STATE OF Wisconsin
COUNTY OF Jefferson

June The foregoing instrument was acknowledged before me this 1 day of June, 2016, by **BOB BURNS**, as President of TREK BICYCLE CORPORATION, a Wisconsin corporation, Manager for B-cycle, LLC, a Delaware Limited Liability Company. They are personally known to me or have produced _____ as identification and did not take an oath.

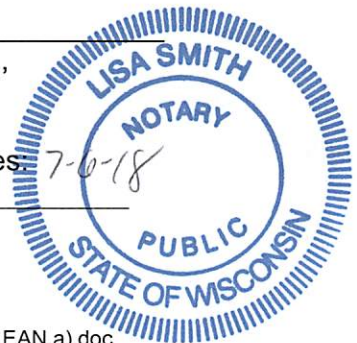
(NOTARY SEAL)

[Signature]
Notary Public, State of Florida
(Signature of Notary taking Acknowledgment)

Lisa Smith
Name of Notary Typed,
Printed or Stamped

My Commission Expires: 7-0-18

Commission Number _____



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L:\REALPROP\REV_LIC\2016\B-Cycle 5 Amendment\5th Amendment (rbd.2.CLEAN).doc
E:\Recovered\rbd_office\2016\Revocable License\Fifth Amendment B-Cycle\5th Amendment (rbd.3.CLEAN.a).doc

[Handwritten initials]

