

MEMORANDUM OF UNDERSTANDING

*Participation in Montgomery County's Dockless
Vehicle-Sharing Demonstration Project in the
City of Gaithersburg, Maryland*

This Memorandum of Understanding ("MOU") is made and entered into as of July 20, 2020, by and between Montgomery County, Maryland, a body corporate and politic, located at Executive Office Building, 101 Monroe Street, Rockville, Maryland 20850 ("County"), and the City of Gaithersburg, Maryland, a municipal corporation of the State of Maryland, located at 31 South Summit Avenue, Gaithersburg, Maryland 20877 ("City"), each individually referenced herein as a "Party" and collectively as the "Parties." This MOU sets forth the terms and performance measures agreed upon between the City and the County regarding participation in Montgomery County's Dockless Vehicle-Sharing Demonstration Project (the "Demonstration Project") with the providers of the dockless vehicles ("Participating Companies") as defined and identified in the County's template Memorandum of Understanding with each provider, the template for which is attached hereto as Exhibit A and incorporated herein ("County MOU").

WITNESSETH

WHEREAS, it is the intent of the County to further the public purpose of ensuring that an adequate transportation system is available to improve personal mobility choices by providing first- and last-mile connections to transit and employment and to support a greener county, easier commutes, safe neighborhoods, and a sustainable government.

WHEREAS, the City recognizes the need to support alternative transportation improvements within the City to support growth and development.

WHEREAS the Parties find it is in their best interests to enter into and agree to the terms and conditions of this MOU to allow the City to participate in the County Dockless Vehicle-Sharing Demonstration Project.

NOW, THEREFORE, in consideration of the above and the mutual promises hereinafter set forth, the Parties hereto agree as follows:

1. The County will notify or require the Participating Company(s) to notify the City of potential sites within the City for dockless vehicle-sharing deployment and operations, as specified in Exhibit A for a mobile application-based platform connecting users to such dockless vehicles. The City must approve any deployment site within the City, but may vary required approval of minimum dockless vehicle amounts for specific areas within the City, and upon approval of such a deployment site shall permit Participating

Company(s) to utilize the approved deployment site and to operate within the City in accordance with the terms of the MOU between the Participating Company(s) and the County. Participating Company shall not deploy more than three (3) Dockless Vehicles along a block face within the City unless other requirements are established by the City and will work with the City to determine appropriate deployment numbers and approaches, which may vary for specific areas within the City. Designated deployment areas are limited to a maximum of fifteen (15) total Dockless Vehicles at any time, or such other number as may be determined by the City, and may be changed over time by the City, depending upon local circumstances for specific areas.

2. The City will not contract directly with Participating Company(s) and will rely on the MOU between the Participating Company(s) and the County. All provisions in the County's MOU with each Participating Company shall, unless in conflict with this MOU, apply to the City. The City will coordinate with the County and with the individual Participating Company(s) to the extent necessary to facilitate implementation of the Demonstration Project within the City's boundaries.
3. The County will coordinate with the Participating Company(s) and ensure that the Participating Company(s) are in compliance with the County MOU between the Participating Company(s) and the County. The County shall notify the City if any Participating Company is not in compliance.
4. The City will not issue parking tickets or citations, or impound dockless vehicles parked in accordance with the performance measures of the County's MOU and Federal, State and local law, or enforce any such parking tickets or citations if the City is notified such a ticket or citation was issued in error.
5. The City reserves the right, without prior notice, to exercise its police powers to temporarily close access to any deployment site or other City area if the City finds that an emergency poses an imminent risk to public health, safety or a risk of property damage.
6. If deployment and parking areas for the dockless vehicles are to be physically identified within the City's boundaries, the City will coordinate with the County and the Participating Company(s) to provide those physical designations, including the identification of suggested parking areas and any necessary physical structure such as bike racks and signage.
7. Dispute/Resolution: In the event a dispute arises as to the interpretation or implementation of this MOU which cannot be resolved by those immediately involved, the Parties agree that the matter will be referred to the City Manager

and the Chief Administrative Officer (CAO) of Montgomery County for consideration, review and resolution. If the City Manager and the CAO are unable to resolve the dispute, they may agree to submit the dispute to mediation or binding arbitration, or file an appropriate action in the Circuit Court of Montgomery County for resolution of the dispute.

8. The Parties agree to indemnify and hold harmless the other Party from and against all claims, demands, actions, suits, damages, liabilities, losses, settlements, judgments, costs and expenses suffered or incurred by the other Party resulting from any of their negligent acts or errors or omissions of either Party. Indemnification given by the County in this MOU is subject to the notice requirements and damage limitations set forth in the Local Government Tort Claims Act, Md. Code Ann., Cts. & Jud. Proc. Sec. 5-301, et seq. (the "LGTCA") and Md. Code Ann., Cts. & Jud. Proc. Sec. 5-5A-02 (collectively, the "County Indemnification Statutes"), all as amended from time to time, and is in no way intended to create any rights or causes of action in any third parties, or to increase the County's liability over any above the caps provided in the County Indemnification Statutes, as applicable.
9. Participating Company(s) shall maintain at all times the following minimum insurance coverage and provisions: a comprehensive general liability insurance policy concerning acts or omissions of Participating Company and its employees, agents and contractors, with limits of not less than \$2,000,000 per occurrence and with excess liability limits of at least \$3,000,000 per occurrence and in the aggregate, for bodily injury, death and property damage, with a commercially reasonable deductible amount, with coverage including independent manufacturer's and independent contractor's liability, damage from explosion, collapse and underground hazards, and completed operations coverage. Montgomery County, the City and all elected and appointed officials, officers, consultants, agents and employees of the County and City shall be included as an additional insured on the policy for liability arising out of Participating Company's activities. Written notice of cancellation, if applicable, must be delivered to the County in advance. Participating Company(s) shall provide the County with a certificate of insurance at the time of execution of this Agreement, issued to:
Montgomery County, Maryland, Department of Transportation / Director's Office
Attention: Al Roshdieh, 101 Monroe Street, Rockville, Maryland 20850
10. This MOU shall be construed in accordance with all applicable federal, state and local laws. For purposes of litigation involving this MOU, exclusive venue and jurisdiction shall be in the Circuit Court of Maryland for Montgomery County, District Court of Maryland for Montgomery County or the United States District Court of Maryland.


11. This MOU shall become effective upon signature by both Parties and will remain in effect coterminous with the County's Demonstration Project. This MOU shall constitute the entire agreement between the Parties, and any prior understanding or representation of any kind preceding the effective date of this MOU shall not be binding upon either Party, except to the extent incorporated in this MOU. Any modification of this MOU or additional obligation assumed by any Party in connection with this MOU shall be binding only if evidenced in writing and signed by an authorized representative of each Party.

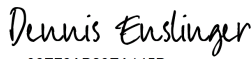
12. This MOU may be terminated by either Party: (i) for the other Party's breach or violation of this MOU, provided the other Party fails to cure such breach within fifteen (15) days' written notice of same; or (ii) due to insufficient funding or the non-appropriation of funds, subsequent to giving the other Party fifteen (15) days' written notice of termination for same; or (iii) with the written mutual consent of the Parties.

IN WITNESS WHEREOF, the CITY and the COUNTY have executed and sealed this MOU as of the date first written above.

WITNESS:

THE CITY OF GAITHERSBURG,
a municipal corporation

DocuSigned by:

974CC819AE54420...

DocuSigned by:

By: 06E79AB20EA145D...

Title: Acting City Manager

Date: 07/14/2020 | 3:06 PM EDT

WITNESS:

MONTGOMERY COUNTY, MARYLAND

DocuSigned by:
Heather Jeffrey
E25816167BE144D

DocuSigned by:
Christopher Conklin
By: 2CGF9C1D76FC4EA...

Title: Department of Transportation Director

Date: 07/17/2020 | 10:34 AM EDT

Office of the County Attorney

Office of the City Attorney

DocuSigned by:
Neal Anker
8BC2D11B587B43C...

DocuSigned by:
Lynn Board
E1A3B428215E42A...

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