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## RESOLUTION

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**URGING THE CITY ADMINISTRATION TO ENTER INTO A LEASE OR OTHER AGREEMENT WITH BIKESHARE HAWAII FOR USE OF CITY PROPERTY FOR THE BIKI BIKESHARE PROGRAM.**

WHEREAS, on February 14, 2014, the City Council ("Council") adopted Resolution 14-35 urging the Department of Transportation Services and the Department of Planning and Permitting of the City and County of Honolulu ("City") to devote their best efforts to the establishment of a public purpose bikeshare program in the City; and

WHEREAS, on January 21, 2015, the City approved a "Request for Exemption" pursuant to the Hawaii Public Procurement Code (Chapter 103D of the Hawaii Revised Statutes), certifying that Bikeshare Hawaii was, on that date, the sole non-profit organization source for all public-private partnership bikeshare planning and programming in the State of Hawaii such that it would not be practicable or advantageous for the City to select a grantee by competitive means; and

WHEREAS, Bikeshare Hawaii began operations on June 28, 2017, based on funding consisting of start-up grant monies from public and private donors, including \$2 million from the State of Hawaii and the City, for the purpose of placing bicycles for public use at docking stations on public and private properties in the City from Chinatown to Waikiki; and

WHEREAS, the City and Bikeshare Hawaii entered into a grant agreement, dated June 30, 2015, designated as Contract No. CT-DTS-1500467 (the "Contract") for the nonprofit to implement the Biki Bikeshare Program ("Biki") to provide people within the designated area with short-trip rental bicycles accessed through a network of self-service docking stations; and

WHEREAS, the Contract has been amended at least four times, on February 10, 2016, August 31, 2016, January 18, 2017, and August 20, 2018, substantially modifying the original terms of the Contract; and

WHEREAS, through these amendments, the term of the Contract has been extended from a total of two years in the original Contract (12 months from the official commencement date on the City's Notice to Proceed, with an option to extend, by mutual agreement of the parties, for another period not to exceed 12 months) to, as of Amendment No. 4, a possible total exceeding 10 years (the original 12 month term with an extension of up to 60 months and an option to extend once more on a month-to-month basis for an additional 60 months), subject to the availability of funds (Section 2 ("Option to Extend") of Appendix B ("Term/Schedule of Work") of the Contract, as amended); and



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WHEREAS, pursuant to the original Contract, the grant goal was "[t]o support Bikeshare Hawaii in the implementation of its initial phase for a public bikeshare transportation system in Honolulu," however, by Amendment No. 3, the Contract's goal was modified "[t]o support Bikeshare Hawaii in the implementation and operation of the Bikeshare Project"; and

WHEREAS, the Contract, as amended, provides for Bikeshare Hawaii "to provide a bikeshare program for use by the public for transportation and recreational purposes, including up to 200 docking stations and 2,000 bicycles, which shall be open for public use" (Section 1 ("Grant Objectives") of Appendix A ("Scope of Work") of the Contract); and

WHEREAS, the Contract, as amended, provides for the existing bikeshare program to be expanded, including increasing the scope of work from a geographical "project zone" to include an area denominated as the "expansion zone" (Section 10 ("Expansion"), Appendix A ("Scope of Work"), and Attachment A-2 ("Detail of Expansion Zone") of the Contract); and

WHEREAS, Biki's website currently states that "Biki has 1,300 bikes at 130 . . . self-service 'Biki Stops' throughout downtown Honolulu"; and

WHEREAS, according to the Honolulu Star Advertiser in May 2019, Bikeshare Hawaii reports that there are "around 13,000 recurring riders, but around 100,000 members total that have used the system"; and

WHEREAS, the City has provided to Bikeshare Hawaii, without any charge, the use of City sidewalks, streets, and other real property, for Biki docking stations and bicycles, many of which displace public parking, traffic lanes of City streets, City sidewalks, or other City owned or controlled spaces; and

WHEREAS, Bikeshare Hawaii's use of City real properties for Biki's docking stations and equipment may have the elements of a lease under applicable law, and

WHEREAS, Section 28-4.1 of the Revised Ordinances of Honolulu ("ROH") provides that the Council must approve all leases of City real property with a term in excess of five years, but the Council has never approved a lease of the City real property to Bikeshare Hawaii for its use for Biki's docking stations or equipment; and

WHEREAS, in March 2017, Bikeshare Hawaii contracted with Secure Bike Share Hawaii, LLC, a private for-profit entity, to supply initial bicycles and docking stations for the Biki program and to manage Biki's day-to-day operations; and



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WHEREAS, according to its website, Biki receives revenues from charging fees to users of the Biki bicycles on a self-service basis, currently in the amount of \$15 or \$25 per monthly plan, \$200 for 300 minutes, or \$3.50 per single ride, plus a refundable \$50 security fee; and

WHEREAS, Bikeshare Hawaii also receives revenues from "supporters," including American Savings Bank, ANA Hawaii, Hawaii Medical Service Association, Hawaii Pacific Health, and Hale Mahana Apartments, among others, for whom Bikeshare Hawaii provides space on the handlebars and rear tire frames of Biki bicycles for the placement of advertisements or other message as "sponsors"; and

WHEREAS, Bikeshare Hawaii also receives revenues through its "Adopt-a-Biki" program, whereby each donor of \$1,000 is entitled to have an inscription of their choice placed on a Biki bicycle; and

WHEREAS, the City does not share in any of the aforementioned revenues because the Contract, as amended, does not provide for the City to do so, but Section 10 ("Modification of Agreement") of Appendix E ("General Terms and Conditions") of the Contract, as amended, authorizes the City to modify the agreement upon written consent by both parties; and

WHEREAS, the Council finds that the use of Biki bicycles throughout Honolulu has visibly increased to the point where the bikeshare program should begin to pay its fair share for the use of City real property for its docking stations and other equipment; and

WHEREAS, the Council further finds it is in the interests of the citizens of Honolulu that Bikeshare Hawaii fairly compensate the City for Biki's use of City real property in its bikeshare program; now, therefore:

BE IT RESOLVED by the Council of the City and County of Honolulu that the City Administration is urged to enter into a lease, subject to Council approval by resolution, or other lawful agreement with Bikeshare Hawaii requiring the nonprofit to pay the City reasonable compensation per square foot for use of City property for docking stations and other bikeshare equipment used in the Biki Bikeshare Program; and



**RESOLUTION**

BE IT FURTHER RESOLVED that the Director of Transportation Services is requested to provide an annual written report to the Council, with the first report submitted no later than December 31, 2019, detailing the status of all agreements of the City with Bikeshare Hawaii, including the legal provisions made to ensure that Bikeshare Hawaii compensates the City for use of City real property in the Biki Bikeshare Program, and the amounts paid to the City for such use in the preceding year; and

BE IT FINALLY RESOLVED that copies of this resolution be transmitted to the Mayor; the Managing Director; the Director of Transportation Services; the Director of Planning and Permitting; and J. Todd Boulanger, Executive Director, Bikeshare Hawaii, 914 Ala Moana Blvd., Floor 2, Honolulu, Hawaii 96814.

INTRODUCED BY:

Hadi Toureysli

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DATE OF INTRODUCTION:

**AUG 15 2019**

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Honolulu, Hawaii

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Councilmembers