

**AN ORDINANCE AUTHORIZING THE CITY TO ENTER INTO A LEASE AGREEMENT WITH THE URBAN BIKE PROJECT OF WILMINGTON, INC. FOR THE LEASE OF THE PREMISES LOCATED AT 301 EAST 15TH STREET**

#4180

**WHEREAS**, pursuant to City Charter Sec. 2-308, the City Council may by ordinance authorize the leasing of real estate for more than one year; and

Sponsors:

**WHEREAS**, the City of Wilmington ("City") is the owner of that certain real property commonly known as 301 East 15<sup>th</sup> Street, Wilmington, Delaware, being Tax Parcel Nos. 026-029.30-126 (the "City Property"); and

Council  
President  
Gregory

**WHEREAS**, Urban Bike Project of Wilmington, Inc. ("Urban Bike Project"), a Delaware non-profit corporation, the wishes to enter into a two year lease of the City Property (the "Leased Premises"); and

Council  
Member  
D. Brown

**WHEREAS**, the City and Urban Bike Project have agreed to the lease of the City Property, subject to the terms of a Lease Agreement (the "Agreement"), attached hereto and made a part hereof in Exhibit A and contingent upon City Council approval.

**NOW THEREFORE THE COUNCIL OF THE CITY OF WILMINGTON HEREBY ORDAINS:**

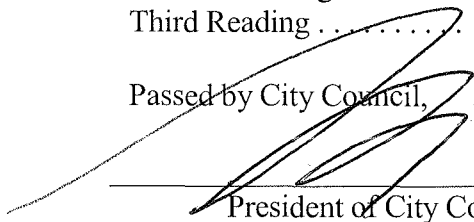
**SECTION 1. Authorization of the Agreement.** The City is hereby authorized to execute the Agreement with Urban Bike Project to allow for the lease of the Leased Premises to the Urban Bike Project.

**SECTION 2. Further Action.** The appropriate officers of the City are hereby authorized and directed to take all such actions, and to execute, deliver, file and record all such documents, publish all notices, make all required payments and otherwise carry out the intent of this Ordinance in the name of and on behalf of the City.

**SECTION 3. Effective Date.** This Ordinance shall become effective upon its passage by Council and approval by the Mayor.

First Reading . . . March 3, 2016  
Second Reading . . . March 3, 2016  
Third Reading . . . . . April 7, 2016

Passed by City Council, April 7, 2016

  
\_\_\_\_\_  
President of City Council

ATTEST: Maribel Slijo  
City Clerk

Approved as to form this 2<sup>nd</sup> day of  
March, 2016

[Signature]  
Assistant City Solicitor

Approved this 22 day of April, 2016

[Signature]  
Mayor

**SYNOPSIS:** This Ordinance authorizes the City to enter into a Lease Agreement with the Urban Bike Project of Delaware, Inc. to allow for the lease of the City owned property located at 301 East 15<sup>th</sup> Street to the Urban Bike Project.

## LEASE AGREEMENT

**THIS LEASE AGREEMENT (the "Lease")** is made this \_\_\_\_ day of \_\_\_\_\_ 2016, by and between the **City of Wilmington**, a municipal corporation of the State of Delaware (hereinafter referred to as "City") and **Urban Bike Project of Wilmington, Inc.**, a non-profit corporation incorporated under the laws of the State of Delaware (hereinafter referred to as "Urban Bike").

### WITNESSETH:

**WHEREAS**, the City owns that certain parcel of land located at 301 East 15th Street, Wilmington, Delaware, being Tax Parcel No. 26-029.30-126 (hereinafter referred to as the "Demised Premises"); and

**WHEREAS**, Urban Bike desires to lease the Demised Premises from the City so that the Demised Premises may be used as a facility for a bike shop to provide quality tools and educational programs and mechanical assistance to City of Wilmington residents and youth in need of assistance; and

**WHEREAS**, the City desires to enter into such an agreement with Urban Bike.

**NOW, THEREFORE**, in consideration of the mutual covenants and promises contained herein, and other good and valuable consideration, the parties hereto agree as follows:

(1) Demised Premises. The Demised Premises, being Tax Parcel No. 26-029.30-126, is bounded by East 16<sup>th</sup> Street to the north and East 15<sup>th</sup> Street to the south. The Demised Premises is listed on the National Registry of Historic Places and once served as the City's horse stables.

(2) Lease Term. The City hereby leases to Urban Bike the Demised Premises for a term of twenty four (24) months beginning on April 15, 2016 and ending on April 15, 2018 (the "Lease Term"), if not sooner terminated in accordance with the terms of this Lease.

a. Urban Bike shall have the sole option and ability to terminate this lease, with such termination effective as of 15 months after the start date of the Lease Term (the "Option Date"), by providing written notice of same to City by June 15, 2017. After passage of the Option Date, and absent written notice of termination, Urban Bike shall no longer have such an option to terminate this Lease as shall be required to honor the full term of this Lease.

(3) Rental. Urban Bike shall pay to City as rent for the Demised Premises the sum of \$500.00 per month during the term of this Lease. Urban Bike covenants and agrees to pay the first month's rent upon execution of this Lease and all remaining rents by the 5<sup>th</sup> of each month during the lease term.

(4) Use of the Premises. Urban Bike shall use the Demised Premises primarily for the operation of a shop for bike maintenance and repair and educational assistance to the City's youth and adults. The use of the Demised Premises shall be consistent with the provisions of the certificate of incorporation and strategic plan for Urban Bike. Urban Bike shall use the Demised Premises in such a way as to facilitate the services and uses provided to the public consistent with the uses specified in this Lease. Urban Bike may put up signage that is in compliance with the applicable City Code(s). All such signage must be removed from the Demised Property prior to expiration of the Lease Term.

(5) Condition of the Premises. Urban Bike shall make an inspection of the Demised Premises prior to the commencement of the Lease term to familiarize itself with the Demised Premises as it is being leased in "as is" condition. The City shall bear no responsibility for the present condition of the Demised Premises and Urban Bike's ability to use the same for its purposes.

(6) Maintenance/Improvements.

a. Urban Bike, at its sole cost and expense, may make alterations or improvements to the Demised Premises upon prior approval of the City which shall not be unreasonably withheld. All alterations or improvements shall be in keeping with Urban Bike's Use of the Premises. Urban Bike, at its sole cost and expense, shall be responsible for all maintenance and repairs at the Demised Premises, necessary to keep the Demised Premises and all improvements (if any) in good order and condition.

b. Nothing in this lease should be construed to require Urban Bike to be responsible to repair or replace any structure, major building system, or capital item, including but not limited to roofing, and HVAC system unless such repair or replacement is directly caused by the negligence of Urban Bike.

c. Notwithstanding paragraph 12 of this Lease, to the extent that the Demised Premises are not currently in compliance with the American Disabilities Act or any other Federal law, the City (and not Urban Bike) bears full responsibility for bringing the Demised Premises in to compliance with such Federal law.

d. Notwithstanding paragraph 12 of this Lease, to the extent that the Demised Premises are not currently in compliance with any law or regulation of Delaware or any applicable governmental unit within of Delaware (including the City of Wilmington), the City (and not Urban Bike) bears full responsibility for bringing the Demised Premises in to compliance with such applicable law.

e. Urban Bike shall be responsible for all trash removal. Urban Bike will acquire a dumpster from a local trash-hauling service, or otherwise contract from a third party to accomplish trash removal. City shall not be responsible for providing such trash removal services for the duration of the Lease Term.

f. City shall be responsible for grass cutting and snow removal on the Demised Premise and Urban Bike shall provide City with access over the Demised Property, if needed, to accomplish same for the duration of the Lease Term.

(7) Taxes; Utilities.

a. During the term of this Lease, Urban Bike shall not be liable for the payment of any real estate taxes that may be assessed, levied or imposed upon the Demised Premises or any part thereof, or the use or occupancy thereof.

b. During the term of this Lease, the City shall be solely liable for the payment of any and all water and sewer service charges; stormwater fees; gas, electricity, heating fuel, telephone service charges; and other charges for utilities incurred by Urban Bike and charged against the Demised Premises during the term of this Lease.

c. During the term of this Lease, Urban Bike shall not be liable for the payment of security services currently provided by Tyco. The City shall pay for this expense, and shall provide security services through Tyco or another third party provider of such services.

(8) Insurance.

a. During the term of this Lease, Urban Bike shall procure and maintain in effect, at its sole cost and expense, commercial general liability insurance against any claims for bodily injury, death or property damage, occurring on, in or about the Demised Premises, and against contractual liability for any such claims, such insurance to afford minimum protection for a combined single limit of \$1,000,000.

b. Urban Bike shall also maintain, at its sole cost and expense, workers compensation insurance meeting statutory requirements. Urban Bike, at its sole cost and expense, may also maintain from time to time such other insurance coverages as may be deemed prudent by Urban Bike, including but not limited to, fire and casualty insurance on the buildings and other improvements on the Demised Premises.

c. All policies of insurance required by this Lease shall be maintained with insurance underwriters authorized to do business in the State of Delaware. During the term of this Lease, Urban Bike shall not permit or cause the cancellation or reduction of coverage of any insurance required hereunder without City's approval. Urban Bike shall further name the City as an additional insured under its policies of insurance for the Demised Premises.

(9) Indemnification. Urban Bike covenants and agrees to indemnify and hold harmless the City, its officers, agents and employees, against any suit or claim of any kind for damages or injury to persons or property sustained from the use of the Demised Premises, including environmental claims attributable to Urban Bike's use of the Demised Premises, excluding any claim arising out of or resulting from the City's own negligent, reckless and/or intentionally unlawful conduct.

(10) Fire or Other Casualty.

a. In the event that the Demised Premises are rendered wholly unfit, by fire or other casualty, for the uses and purposes of Urban Bike hereunder, then this Lease shall terminate on the date of such fire or casualty.

b. In the event that the Demised Premises are rendered partially unfit, by fire or other casualty, then Urban Bike shall have thirty (30) days following such fire or casualty to determine whether, in the judgment of Urban Bike, the Demised Premises is still fit for Urban Bike's use and purposes. If Urban Bike notifies the City within the thirty day period of its election to continue the lease of the Demised Premises, then this Lease shall continue as set forth herein. If Urban Bike fails to notify the City of its decision within the thirty day period or declines to continue the lease of the Demised Premises, then this Lease shall automatically terminate upon the conclusion of the thirty day period and Urban Bike shall surrender possession of the Demised Premises to the City.

(11) Assignment/Sublease. Urban Bike shall not assign this Lease or sublet the Demised Premises or otherwise transfer the rights and obligations under this Lease without the prior written consent of the City. Any assignment, sublease, or other transfer in violation of this provision shall result in termination of this Lease.

(12) Compliance with Laws. Urban Bike shall operate and maintain the Demised Premises in accordance with all applicable federal, state, and local laws, rules and regulations that may apply to the Demised Premises.

(13) Termination.

a. In the event that Urban Bike breaches any term or condition of this Lease and, after written notice of such default by the City, fails to cure such default within thirty (30) days after receipt of such notice, or such default is of such a character as to require more than thirty (30) days to cure and Urban Bike fails to commence to cure such default through the exercise of reasonable diligence within that thirty (30) day period, the City may terminate this Lease immediately by giving Urban Bike written notice of the termination and the reasons therefore.

b. The parties may also terminate this Lease upon mutual consent.

c. Upon the termination or expiration of this Lease, Urban Bike shall promptly remove all of its effects from the Demised Premises, except fixtures which have become part of the realty, and peacefully yield up the Demised Premises to the City.

d. Upon termination of this Lease, all structures or improvements on the Demised Premises shall become the property of the City.

e. Urban Bike shall be liable to the City for any damage to the Demised Premises, normal wear and tear excepted, and for the payment of rent through the month in which possession of the Demised Premises is returned to the City.

f. Urban Bike also possesses the sole option of terminating this lease early as described in Section 2(a) herein.

(14) Notice. Any notice required hereunder to be given to Urban Bike shall be sufficient if in writing and sent by certified mail to Urban Bike at P.O. Box 729, Wilmington, DE 19899, with a copy to each of Laura Wilburn, Executive Director, at wilburn.laura@gmail.com, and Adam Singer, Board Member, at asinger47@gmail.com. Any notices required hereunder to be given to the City shall be sufficient if in writing and sent by certified mail to City of Wilmington Law Department, Louis L. Redding City/County Building, 9<sup>th</sup> Floor, 800 N. French Street, Wilmington, Delaware 19801.

(15) Binding Effect. This Lease shall be binding upon and inure to the benefit of the parties, their successors, and assigns. This Lease constitutes the entire agreement between the parties hereto and shall not be changed, amended or otherwise modified except by a subsequent writing signed by Urban Bike and the City.

(16) Access to Premises. The City shall have the right to inspect the Demised Premises at any time during regular business hours and at any time in the event of an emergency. Further, the City hereby reserves easements for all existing and future utilities on and across the Demised Premises.

(17) Wage Tax; Business License. Urban Bike shall be responsible, if applicable, for the payment of City wage taxes for its employees in accordance with the City of Wilmington's Wage Tax Law as it may be amended from time to time. Urban Bike shall obtain and/or maintain, if applicable, an appropriate business license from the City's Department of Finance.

(18) Discrimination. In the performance of its operations, Urban Bike agrees that they shall not discriminate or permit discrimination against any person because of age, sex, marital status, race, religion, color, national origin or sexual orientation.

(19) Governing Law. This Lease shall be governed by the laws of the State of Delaware.

(20) Severability. In the event that a portion of this Lease shall be declared invalid or unenforceable, the remainder of this Lease shall not be affected thereby, but shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have entered into this Lease the date and year first above mentioned.

**CITY OF WILMINGTON**

**URBAN BIKE PROJECT OF  
WILMINGTON, INC.**

BY: \_\_\_\_\_  
Mayor

BY: \_\_\_\_\_  
Chairman

Attest: \_\_\_\_\_

Attest: \_\_\_\_\_

Approved as to form

\_\_\_\_\_  
Assistant City Solicitor