



Marquette
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**City of Marquette
Binding Document Checklist – General**

1 – Today's Date	<u>April 21, 2022</u>	Department Requesting	<u>DDA</u>
2 – Entity Name	<u>SpinwayMQT, LLC</u>	Type of Document	<u>Lease</u>
3 – Contact Person	<u>Pete Duex</u>	Contact Person's Title	<u>LLC Member</u>
4 – Phone Number	_____	Mailing Address	<u>1599 Altamont St</u>
5 – E-mail Address	<u>peteduex@hotmail.com</u>	City, State, Zip	<u>Marquette, MI 49855</u>
6 – Location	<u>245 S. Lakeshore Blvd</u>	Description/Event	<u>Bike Rental Kiosk</u>
7 – Effective Date	<u>May 1, 2022</u>	Termination Date	<u>April 30, 2025</u>
8 – Insurance Required <input checked="" type="checkbox"/>	Insurance Collected <input type="checkbox"/>	Insurance Expiration Date	_____
9 – Document Includes Necessary Exhibits <input checked="" type="checkbox"/>	Document Includes Necessary Maps <input checked="" type="checkbox"/>	Includes Title VI Language (ALL) <input type="checkbox"/>	
10 – Fee/Pmt. Required <input checked="" type="checkbox"/>	Amount \$ <u>500</u>	Payment Frequency	<u>Annual</u>
11 – Deposit Required <input type="checkbox"/>	Amount \$ _____	Deposit Received <input type="checkbox"/>	
12 – Person Responsible for Billing	<u>DDA</u>	Account Number	<u>N/A</u> Rev. <input type="checkbox"/> Exp. <input type="checkbox"/>
13 – Commission Approval Required Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		Date of Commission Approval	<u>May 9, 2022</u>
14 – Internal Contact	<u>DDA Director</u>	Alternate Contact	_____

Please date and initial next to the step below once it is completed. If any steps and/or signatures are not required, please write N/A instead of the date with your initials. If you write comments on this form throughout the process, please initial next to your comments. The abbreviated titles in parentheses denote the required initials for that item.

- | Date | Initials | |
|--------------------------|------------|---|
| _____ | _____ | (DH) Completes proposed contract using standard template provided by City Attorney. If changes are necessary, coordinate with City Attorney. City Attorney reviews completed document with Department Head. Department Head prints three original copies. |
| _____ | _____ | (DH) Department Head obtains signature from entity (all three original copies). Enter agenda item into Legistar for Commission meeting with document as attachment. Include exhibits and insurance! |
| _____ | _____ | (DH) Department Head delivers three ¹ original s to City Manager's Office. |
| _____ | _____ | (CM) City Manager reviews with the Department Head during agenda coordination meeting. |
| <u>5/9/22</u> | <u>WL</u> | (CMO) City Manager's Office leaves signature file for City Commission meeting approval. |
| <u>5/9/22</u> | <u>scl</u> | (CA) At meeting, City Attorney approves as to form and signs, passes to Mayor. |
| _____ | <u>✓</u> | (M) At meeting, Mayor signs for City of Marquette, leaves at dais. |
| <u>5/10/22</u> | <u>WL</u> | (CMO) City Manager's Office receives three ¹ original s , verifies signatures of entity, Mayor, and City Attorney. City Manager approves as to substance and signs. |
| <u>5/10/22</u> | <u>WL</u> | (CMO) City Manager's Office delivers three ¹ original s to the City Clerk. |
| <u>5/10/22</u> | <u>KW</u> | (CC) City Clerk signs for City of Marquette and executes document. Only initial this line once the below are complete. |
| <input type="checkbox"/> | | Approved by City Commission |
| <input type="checkbox"/> | | Notarize document |
| <input type="checkbox"/> | | Scan for electronic retention |
| <input type="checkbox"/> | | Record document on records management list |
| <input type="checkbox"/> | | Two originals to Department Head (one is for lessee) |
| <input type="checkbox"/> | | File one original in City Clerk's Office |
| <input type="checkbox"/> | | One copy of checklist to City Manager's Office |
| <input type="checkbox"/> | | One copy of checklist to person responsible for billing |

LEASE AGREEMENT

THIS AGREEMENT, made and entered into this 9th day of May 2022, by and between **THE MARQUETTE DOWNTOWN DEVELOPMENT AUTHORITY**, an authority of the City of Marquette, of 337 W. Washington Street, Marquette, Michigan 49855, hereinafter "LESSOR" and **SPINWAYMQT, LLC**, a Michigan limited liability company, with a mailing address of 1599 Altamont Street, Marquette, Michigan 49855, hereinafter "LESSEE".

Recitals

- A. The City of Marquette, a Michigan municipal corporation, of 300 W. Baraga Avenue, Marquette, Michigan 49855 is the owner of the real property located at 245 S. Lakeshore Boulevard in the City of Marquette. The Lessor manages the real property located at said address.
- B. Lessee desires to lease and Lessor is willing to lease to Lessee a 10 foot x 24 foot section of the property located in the greenspace between the Lakeshore Parking Lot and the Iron Ore Heritage Trail as shown in Exhibit "A" located on Lessor's managed property in accordance with the terms and conditions contained herein.

NOW, THEREFORE, in consideration of the mutual promises of the parties and other good and valuable consideration, the receipt of which is hereby acknowledged, it is agreed as follows:

1. Leased Premises

- 1.1 Lessor leases to Lessee space as shown in Exhibit "A", hereinafter "PREMISES".

2. Term of Lease

This lease shall run from May 1, 2022 through April 30, 2025.

3. Rent

The rent shall be \$500.00 annually for the lease term. Payment shall be made to Lessor by May 31, 2022 and May 31 annually thereafter for the duration of the term.

4. Use of Premises

- 4.1 Lessee shall use the premises only for installation and operation of an Automated Bicycle Rental Vending Terminal. Bicycles shall be non-motorized.
- 4.2 The Automated Bicycle Rental Vending Terminal shall only be installed and operational between May 1 and October 31 annually throughout the duration of the term.
- 4.3 Minor grading and installation of an aggregate base and sono-tube for rack anchorage are permitted at the Lessee's sole expense and maintenance responsibility.

- 4.4 Prior to installation of the Automated Bicycle Rental Vending Terminal, Lessee will meet with MDDA employees to discuss logistics for the use of the Premises.
- 4.5 Lessee shall not use the Premises for any purpose that would:
- a) be deemed hazardous to the public or adjoining premises including, but not necessarily limited to, fire, and environment type hazards;
 - b) constitute a violation of any public law or requirement;
 - c) cause damage or injury to the Premises, or any part of it (ordinary wear and tear excepted);
 - d) constitute a public or private nuisance;
 - e) interfere with other uses of the Premises;
 - f) permit refuse to accumulate in or around leasehold; or
 - g) prohibit or restrict public access through the premises.
5. **Use of Public Areas by Lessee**
Lessee and its invitees shall have the right to use all public areas, subject however to all rules and regulations regarding these areas. Lessee and its invitees shall only use the designated area as shown on Exhibit A. Lessee is permitted to display the signage connected to the Bicycle Rental Vending Terminal, as shown in Exhibit B. This signage is considered as an exception to the sign standards for the parcel as stated within the City of Marquette Land Development Code because it is on the leased property as defined herein.
6. **Non-exclusive Use of Premises**
Lessee acknowledges that its use of the Premises is not exclusive, and that Lessee and its invitees shall have the right in common with Lessor, its invitees, and others to use the Premises.
7. **Maintenance and Repair**
- 7.1 Lessee shall be solely responsible for the maintenance and repair of the Automated Bicycle Rental Vending Terminal and all of Lessee's tangible personal property located or used on the Premises and shall keep them in a safe condition and good repair.
8. **Insurance and Indemnity**
- 8.1 Lessee shall not permit any activity on the Premises which would invalidate or be in conflict with Lessor's insurance policies covering the Premises.
- 8.2 Lessee shall not permit any activity on the Premises which would cause Lessor's rate for the insurance described herein to be increased.
- 8.3 Lessee, at its sole expense, shall be responsible for insuring its own tangible personal property, equipment, and fixtures from loss from fire and other casualty and shall at all times provide Lessor with a certificate evidencing such coverage.
- 8.4 Lessee, at its sole expense, shall maintain liability insurance protecting and insuring Lessee, Lessor, and the City of Marquette from all claims for injury or damage to persons

or property arising out of the use of the Premises by Lessee, its employees, agents, invitees, and licensees. The amount of the insurance shall not be less than One million and 00/100 Dollars (\$1,000,000.00) per occurrence for accident, bodily injury, or death and not less than Three Hundred Thousand and 00/100 Dollars (\$300,000.00) for property damage. Lessee shall at all times provide Lessor with a current copy of said policies with proof of payment of premium thereon. The insurance policies shall bear endorsements to the effect that the insurer agrees to notify Lessor not less than thirty (30) days in advance of any modification or cancellation thereof. Lessor and the City of Marquette shall be named as additional insured on all insurance policies required by this lease.

8.5 Lessee will indemnify and hold Lessor and the City of Marquette harmless from and against all loss, cost, expense and liability whatsoever (including Lessor's or the City of Marquette's cost of defending against the foregoing, such cost to include attorneys' fees) resulting or occurring by reason of Lessee's use and occupancy of the Premises.

9. Assignment/Subletting

9.1 Lessee shall not assign or sublet the Premises or any part thereof without the express prior written consent of the Lessor.

9.2 Lessor may freely assign its rights and obligations under this Lease Agreement to any third party pursuant to a Purchase and Sale Agreement, Land Contract or similar instrument.

10. Use of Premises by Lessor

Lessor and the City of Marquette reserves for themselves and their contractors and agents the right to enter the Premises at reasonable times for the purpose of inspecting, maintaining, installation, operation and repair services of the Premises or adjacent real property.

11. Covenant of Quiet Enjoyment

Lessor warrants and represents that they have the full authority to execute this lease for the above term. Lessor covenants that upon Lessee paying and rents and performing its covenants and duties prescribed herein, Lessee may, except as otherwise described herein, have the non-exclusive and reasonable right to have, hold and enjoy Premises.

12. Lessor's Right to Perform Lessee's Obligation

If Lessee defaults in the observance or performance of any term or covenant of this lease, Lessor may, without thereby waiving the default, remedy the default at Lessee's expense. If, in connection therewith, Lessor makes any expenditure or incurs any obligation for the payment of money or in instituting, prosecuting, or defending any action or proceeding commenced before or during the term of this lease, or after the expiration or termination of this lease including, but not necessarily limited to, legal expenses and attorneys' fees, Lessee shall pay to Lessor on demand the sums paid or obligation incurred together with legal fees and costs.

13. Default by Lessee

- 13.1 If the Lessee fails to perform any obligation under this agreement within 30 days after receiving written notice of the default from the Lessor, the Lessor may terminate this lease.
- 13.2 In addition to the Lessor's other rights and remedies as stated in this lease, and without waiving any of those rights, if the Lessor deems necessary any repairs that the Lessee is required to make or if the Lessee defaults in the performance of any of its obligations under this lease, the Lessor may make repairs or cure defaults and shall not be responsible to the Lessee for any loss or damage that is caused by that action. The Lessee shall immediately pay to the Lessor, on demand, the costs for curing any defaults, as additional rent under this lease.
- 13.3 The rights and remedies of Lessor shall be cumulative as more particularly provided by law or in equity pursuant to the laws of the State of Michigan.

14. Surrender of Leasehold Upon Termination of Lease

If upon termination of the lease, Lessee has failed to remove its Automated Bicycle Rental Vending Terminal and returned the property to its original condition, Lessor reserves the right to deem them abandoned and shall have the legal right to dispose of same, and costs incurred in disposing of same and returning the property to its original condition shall be the financial responsibility of Lessee.

15. Option to Renew

The Lessor and Lessee each have the right to terminate this agreement at any time and for any reason by providing written notice to the other at least 60 days prior to May 1 of each year of this agreement. Upon such notice of termination SPINWAYMQT, LLC will immediately cease to use the Premises.

16. Future Expansion

Any expansion of additional Automated Bicycle Rental Vending Terminals on real property owned by the City of Marquette shall require negotiation between the City of Marquette, the Lessee and the Lessor, if said property is located within the boundaries of the Downtown Development Authority District.

17. Miscellaneous

- 17.1 This agreement shall be binding on the parties and inure to the benefit of the Lessor, the Lessee, and the City of Marquette and their respective successors and assigns.
- 17.2 This agreement shall be governed by and construed in accordance with the laws of the State of Michigan.
- 17.3 This agreement shall constitute the entire agreement between the parties. Any prior understanding or representation of any kind preceding the date of this agreement shall not be binding upon any party except to the extent incorporated herein.


- 17.4 Any modification of this agreement or additional obligations assumed by any party in connection with this agreement shall be binding only if evidenced in a writing signed by each party or an authorized representative of each party.
- 17.5 Waiver by Lessor of any breach of any covenant of duty of Lessee under this lease is not a waiver of a breach of any other covenant of duty of Lessee or any subsequent breach of the same covenant or duty.
- 17.6 The invalidity of any portion of this agreement will not and shall not be deemed to affect the validity of any other provision. In the event that any provision of this agreement is held to be invalid, the parties agree that the remaining provisions shall be deemed to be in full force and effect as if they had been executed by both parties subsequent to the expungement of the invalid provision.
- 17.7 All notices to be given under this lease shall be in writing and mailed, postage prepaid, or by certified or registered mail, return receipt requested, or delivered personally or by courier delivery, or sent by telecopy (immediately followed by one of the preceding methods) to Lessor's address and Lessee's address as above stated or any other place that Lessor or Lessee may designate in a written notice given to the other parties. Notices shall be deemed served on the earlier of receipt or three (3) working days after the date of mailing.

The parties have set their hands on the day and year first above written

OWNER
CITY OF MARQUETTE



Jennifer A. Smith, Mayor



Kyrle Whitney, City Clerk

Approved as to Substance:



Karen Kovacs, City Manager

Approved as to Form:



Suzanne Larsen, City Attorney

LESSOR
MARQUETTE DOWNTOWN
DEVELOPMENT AUTHORITY



Jeremy L. Ottaway, DDA Board Chairperson

LESSEE
SPINWAYMQT, LLC



Peter Duex

Its: LLC Member

EXHIBIT A



EXHIBIT B





CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
05/06/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Veracity Insurance Solutions, LLC 260 South 2500 West, Suite 303 Pleasant Grove UT 84062		CONTACT NAME: Tawni Anderson PHONE (A/C, No, Ext): (801) 763-1375 E-MAIL ADDRESS: tawni@veracityins.com FAX (A/C, No): (801) 763-1374	
INSURED SpinwayMQT, LLC 1599 Altamont Street Marquette MI 49855		INSURER(S) AFFORDING COVERAGE INSURER A : Mid-Continent Excess & Surplus Insurance Company INSURER B : INSURER C : INSURER D : INSURER E : INSURER F :	

COVERAGES **CERTIFICATE NUMBER:** 22/23 Master **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR	Y		09-SL-000019191	05/05/2022	05/05/2023	EACH OCCURRENCE \$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER _____						DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	UMBRELLA LIAB EXCESS LIAB DED _____ RETENTION \$ _____						EACH OCCURRENCE \$ AGGREGATE \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A				PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
It is understood and agreed that the Certificate Holder is named as Additional Insured in regards to the General Liability Policy, but only with respects to its liability arising out of the activities of the Named Insured, subject to all policy terms, conditions and exclusions.

CERTIFICATE HOLDER The City of Marquette 300 W Baraga Ave Marquette MI 49855	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
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