CITY OF OBERLIN, OHIO

ORDINANCE No. 20-20 AC CMS

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO AGREEMENTS WITH SWAY MOBILITY INCORPORATED AND AUTHORIZING THE EXPENDITURE OF FUNDS FROM THE SUSTAINABLE RESERVE FUND

BE IT ORDAINED by the Council of the City of Oberlin, County of Lorain, and State of Ohio:

SECTION 1. That the City Manager is hereby authorized and directed to enter into a Participation Agreement and a Subscription Agreement with Sway Mobility Incorporated, in substantially the forms attached hereto as Attachments A and B respectively, and authorizing the expenditure of $223,910 from the Sustainable Reserve Fund to be utilized pursuant to the terms of said agreements.

SECTION 2. It is hereby found and determined that all formal actions of this Council concerning or relating to the adoption of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 3: That this Ordinance shall take effect at the earliest time permitted by law.

PASSED: 1st Reading: May 4, 2020

2nd Reading: May 18, 2020

3rd Reading: June 1, 2020 (Postponed), 10/19/2020

ATTEST:

Belinda B. Anderson
BELINDA B. ANDERSON, MMC
CLERK OF COUNCIL

Linda Slocum
LINDA SLOCUM
PRESIDENT OF COUNCIL

POSTED: 10/20/2020

EFFECTIVE DATE: 11/18/2020

Sustainable Reserve Fund
Participant Agreement

This Agreement, ("Agreement") is made and entered into this 18 day of Nov, 2020 by and between the City of Oberlin, Ohio, an Ohio Chartered Municipal Corporation, hereinafter referred to as "City" and Sway Mobility Incorporated hereinafter referred to as "Participant" with an address of 3558 Lee Road, Shaker Heights, OH 44120.

WITNESSETH:

WHEREAS, the City has created a Sustainable Reserve Fund, its purpose being to provide funding for the implementation of strategies that are consistent with the City of Oberlin's Climate Action Plan, including programs and/or projects that demonstrate education and outreach related to climate action, energy-efficiency and conservation, waste management and resilience in the face of extreme weather events and other climate change impacts and

WHEREAS, Oberlin City Council has established guidelines for funding requests from the City's Sustainable Reserve Fund, for contractual services in furtherance of the purposes for which the Fund was established; and,

WHEREAS, Oberlin City Council has appropriated funds for the Sustainable Reserve Fund; and

WHEREAS, Participant is a Delaware Corporation licensed to do business in Ohio, and

WHEREAS, Participant has requested funding in the amount of Two Hundred Twenty-Three Thousand Nine hundred and Ten dollars, ($223,910.00) for the purpose of providing the services described in "Exhibit A" attached hereto and incorporated by reference, ("Services") for the benefit of the City of Oberlin and its residents; and

WHEREAS, the City has determined that the Services for which the funds are requested by Participant are consistent with and in furtherance of the purpose for which the Sustainable Reserve Fund was established.

NOW, THEREFORE, in consideration of the foregoing representations and other good and valuable consideration, the receipt and sufficiency of which being hereby acknowledged, the City and Participant agree as follows:

(1). The City agrees to provide funding to Participant in the amount of up to Two Hundred Twenty-Three Thousand Nine hundred and Ten dollars, ($223,910.00) from the Sustainable Reserve Fund to be utilized for the provision of Services in accordance with the provisions of this Agreement. Funding shall be allocated in the following annual amounts billed monthly :

Year 1:	$54,870
Year 2:	$42,260.00

Year 3:	$42,260.00
Year 4:	$42,260.00
Year 5:	$42,260.00

Allocation of funding for years 2 through 5 shall each be subject to the approval of the City Manager, in consultation with the Sustainability Coordinator. Approvals may be based upon a review of the provision of Services by Participant during the preceding year, the level of use by the public, or any other factor deemed appropriate by the City Manager. In the event the City Manager shall determine not not to allocate further funding then this Agreement may be terminated by the City Manager, subject to approval by the Oberlin City Council. In that event, the payment provisions of Section 7.4 of that certain Subscription Agreement of even date made by and between the parties shall be inapplicable. For purposes of this Section the terms "year" shall be a period of three hundred sixty five consecutive days beginning on the date of the payment of funds for Year 1 above.

(2). Participant shall only utilize said funds for the purposes set forth in this Agreement. Any other use shall be first approved by the City Manager in consultation with the Sustainability Coordinator to assure that said use is consistent with the Sustainable Reserve Fund Guidelines

(3). Semi-annually and otherwise upon request, Participant shall provide the City Manager and the Sustainability Coordinator with such receipts, documentation, reports, or other evidence that he or she may request in order to ensure that Participant is duly incorporated and in good standing under the laws of State of Ohio, has maintained insurance coverage as is required under this Agreement and has expended the funds in accordance with the terms of this Agreement. In the event the City Manager and the Sustainability Coordinator determine that any of the funds have been used for any purpose other than those authorized under this Agreement, Participant shall promptly remit said amount to the City. Any funds not used by the end of an annual term shall be returned to the City, or applied to a subsequent year funding as determined by the City Manager.

(4) Revenue from the use of the cars in the car share program shall be divided equally between the City and SWAY Mobility based on the formula in the Subscription Agreement. SWAY will send a reimbursement at the end of each 12 month period to the City of Oberlin.

(5). This is a contract for services only. No business association, partnership or joint venture between the City and Participant shall arise by the execution and performance of this Agreement. Participant agrees to hold the City, its agents and employees, harmless from, and indemnify and defend the City, its agents and employees, from any and all claims, causes of action, damages, or other losses that may arise out of the performance of this Agreement. Prior to execution of this Agreement, Participant shall provide the Sustainability Coordinator with a certificate of insurance in a form and with a carrier acceptable to the City evidencing a minimum of $2 million in annual aggregate general liability coverage and naming the City of Oberlin as an additional insured. Participant shall maintain such coverage throughout the term of this Agreement.

(6). This Agreement shall be in full force and effect upon the last execution thereof, In the event Participant fails to complete the Services in accordance with or otherwise fails to fulfill its obligations under this Agreement, all remaining funds that have been provided pursuant to this Agreement shall be returned to the City. The City may but shall not be required to cause the completion of said Services and may recover from Participant the amounts expended for such work that exceed the amount authorized by this Agreement.

(7) The term of the Agreement shall be for a term of five (5) years as defined in Section 1 above subject to terms and conditions set forth herein.

(8). This Agreement, may not be assigned by Participant without the prior consent of the Oberlin City Council by ordinance.

This Agreement is executed at Oberlin, Ohio as of the dates set forth below.

CITY OF OBERLIN

By: _____
Rob Hillard, Oberlin City Manager

PARTICIPANT
Swagg Mobility Inc.

By: _____
(Name)

Its: Chief Executive Officer

Approved as to form:

_____
Jon D. Clark, Oberlin Law Director

ELECTRIC VEHICLE CAR SHARE
SUBSCRIPTION AGREEMENT

THIS SUBSCRIPTION AGREEMENT ("**Agreement**") is made as of Nov 12, 2020, by and between The City of Oberlin, an Ohio municipal corporation with offices at 69 South Main Street, Oberlin, Ohio 44074 ("**Client**"), and Sway Mobility Inc., a Delaware corporation, with offices at 3558 Lee Road, Shaker Heights, Ohio 44120 ("**Vendor**").

Intending to be legally bound, the parties hereby agree as follows to the terms and conditions below including the attached exhibits.

RECITALS:

A. Vendor has expertise in, and is engaged in the business of, providing shared electric vehicle services.

B. Vendor desires to provide to Client, and Client desires to engage Vendor to provide to Client, certain services as described below.

TERMS AND CONDITIONS:

IN CONSIDERATION of the foregoing recitals and the mutual covenants set forth herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

Article 1. Services

1.1 Scope of Services. Subject to the terms and conditions of this Agreement, Vendor shall perform the services set forth on Exhibit A attached hereto and made a part hereof ("**Services**").

1.2 Project Management. Vendor and Client shall each designate a principal contact who shall act as such party's account manager and the liaison between Vendor and Client on all issues relating to this Agreement. Each account manager shall have sufficient authority to bind such party including, without limitation, granting all necessary approvals and executing agreements and amendments. All communications shall be directed to the respective account managers.

1.3 Standard of Care. Vendor shall provide the Services in a professional, knowledgeable and workmanlike manner, exercising the prevailing standards of professional care established and practiced by firms providing shared electric vehicle services in the United States.

Article 2. Fees and Payment

2.1 Fees and Costs. In consideration of Vendor's performance of the Services, Client shall pay to Vendor the fees and costs (including third-party costs and expenses) as set forth on Exhibit B ("**Fees**").

2.2 Payment Terms. The Fees shall be invoiced by Vendor monthly. All invoices shall be paid to Vendor within fifteen (15) days following Client's receipt of such invoices.

Article 3. Proprietary Rights

3.1 Ownership of Vendor Materials. All right, title and interest in and to each vehicle to be made available by Vendor according to this Agreement, the information, data and other materials provided to Client by Vendor, and to any and all reports, analyses, work papers, third party information, compilations, websites, web development, scripts, software, or any other work product prepared by Vendor related to the Services (collectively, "**Vendor Materials**") are owned and retained exclusively by Vendor. Client shall execute any documents necessary or reasonable, including assignments, to establish or clarify Vendor's ownership of, and/or rights to, any intellectual property in Vendor Materials. Vendor hereby grants Client the right and license to use Vendor Materials in connection with the provision of Services as contemplated by this Agreement and reserves all further rights. All Vendor intellectual property shall remain Vendor's sole property.

3.2 Upon Termination. Upon the expiration or termination of this Agreement, Vendor shall retain all websites, scripts, computer code, books, records, files, data, databases, information, plans, reports, studies, recommendations, analyses, contracts or other documents or property compiled, designed, developed, created, implemented, used and/or maintained by Vendor in connection with the Services.

Article 4. Confidentiality

4.1 Confidential Information. Each party may, from time to time while this Agreement remains in effect, disclose (the "**Disclosing Party**") to the other party (the "**Receiving Party**") certain Confidential Information (as defined below) regarding the Disclosing Party. Except as expressly permitted by this Agreement, the Receiving Party shall protect the Confidential Information of the Disclosing Party from unauthorized dissemination, using the same degree of care which the Receiving Party ordinarily uses with respect to its own proprietary information, but in no event with less than reasonable care. The Receiving Party shall not use the Confidential Information of the Disclosing Party for any purpose not permitted by this Agreement, and shall limit the disclosure of the Confidential Information of the Disclosing Party to the employees or agents of the Receiving Party who have a need to know such Confidential Information for purposes of this Agreement, and who are, with respect to the Confidential Information of the Disclosing Party, bound in writing by confidentiality terms no less restrictive than those contained herein. Notwithstanding the foregoing, Confidential Information may be disclosed if such disclosure is required by law or by the order or a court or similar judicial or administrative body; provided, however, that the Receiving Party shall notify the Disclosing Party of such requirement immediately and in writing, and shall cooperate reasonably with the Disclosing Party, at the Disclosing Party's expense, in the obtaining of a protective or similar order with respect thereto, if practicable.

4.2 Definition of Confidential Information. For purposes of this Agreement, the term "**Confidential Information**" shall mean: (a) any information designated by the Disclosing Party as confidential in writing or, if disclosed orally, designated as confidential at the time of disclosure and reduced to writing and designated as confidential in writing within thirty (30) days; and (b) the existence, terms and conditions of this Agreement; provided, however that "Confidential Information" shall not include information which can be demonstrated: (i) to have been rightfully in the possession of the Receiving Party from a source other than the Disclosing Party prior to the time of disclosure of said information to the receiving party hereunder ("**Time of Receipt**"); (ii) to have been in the public domain prior to the Time of Receipt; (iii) to have become part of the public domain after the Time of Receipt by a publication or by any other means except an unauthorized act or omission or breach of this Agreement; or (iv) to have been supplied to the Receiving Party after the Time of Receipt without restriction by a third party who is under no obligation to the Disclosing Party to maintain such information in confidence.

4.3 Client End User Data. Notwithstanding the other terms of this Agreement, any information within Vendor's possession, custody, or control that was collected or received from or about the end users, prospective end users, or past end users of the Services ("**Client End User Data**"), shall be protected as Confidential Information by Vendor at all times.

For the purposes of this Agreement, "Client End User Data" includes personally identifiable information of any kind, including but not limited to name, date of birth, and social security number; contact information of any kind, including but not limited to phone, address, and email; communications with or about end users, including but not limited to letters, emails, instant messages, text messages, and recorded phone conversations; financial information of any kind; account numbers of any kind, including but not limited to bank account numbers and electronic transaction card information; information of any kind that pertains to end user computer systems and usage, including but not limited to internet protocol addresses, access times, and browsing history, whether or not related to the Services; and security information of any kind, including but not limited to user names, passwords, and challenge questions/answers.

With respect to Client End User Data, Vendor further agrees to the following:

(i) Vendor will refrain from using, disclosing, or distributing Client End User Data for any purpose other than providing or improving the Services;

(ii) Vendor will refrain from disclosing or distributing Client End User Data to any third party except where the disclosure is necessary for providing or improving the Services and the third party is itself contractually bound by terms no less restrictive than this Agreement;

(iv) Vendor will take commercially reasonable measures to protect Client End User Data from unauthorized access, including but not limited to cyber-attacks, hacks, and access by employees or agents who do not have a specific need for the information in performing or improving the Services. Commercially reasonable measures include, but are not limited to, using an industry standard firewall, virus protection, authentication, and other security protocols and technologies no less secure than that which Vendor uses to protect its own highly sensitive confidential information.

(v) Vendor agrees to comply with all laws and regulations applicable to Vendor and/or Client in the collection, storage, handling, and transmission of Client End User Data.

4.4 Survival. This Article 4 shall survive the termination of this Agreement.

Article 5. Representations, Warranties and Disclaimers

5.1 Vendor Warranties. Vendor represents and warrants to Client that: (i) Vendor is a corporation duly formed and organized, existing and in good standing under the laws of the State of Delaware and has full corporate power and authority to engage in its business; (ii) no provision of the organizational documents of Vendor has been or will be violated by the execution and delivery of this Agreement or by the performance or satisfaction of any agreement or condition herein contained or provided for upon its part to be performed or satisfied; (iii) this Agreement and the transactions contemplated hereby have been approved by any necessary corporate action; (iv) Vendor has the full power and authority to enter into this Agreement and to carry out the transactions contemplated hereby; (v) this Agreement has been duly executed and delivered by Vendor and constitutes a valid and binding obligation of Vendor; and (vi) Vendor's work product delivered to Client do not infringe the patents, copyrights, trade secrets, or other intellectual property of any third party.

5.2 Client Warranties. Client represents and warrants to Vendor that: (i) Client has full power and authority to engage in its business; (ii) this Agreement and the transactions contemplated hereby have been approved by all necessary legislative and administrative action; (iii) Client has the full power and authority to enter into this Agreement and to carry out the transactions contemplated hereby; and (iv) this Agreement has been duly executed and delivered by Client and constitutes a valid and binding obligation of Client.

5.3 Disclaimer of Warranties. THE WARRANTIES SET FORTH HEREIN ARE LIMITED WARRANTIES AND ARE THE ONLY WARRANTIES MADE BY THE RESPECTIVE PARTIES. THE PARTIES EXPRESSLY DISCLAIM, AND HEREBY EXPRESSLY WAIVE, ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

Article 6. Limitation of Liability

6.1 Exclusion of Damages. In no event may either party be liable to the other party for any indirect, punitive, special, incidental or consequential damages in connection with or arising out of this Agreement, however it arises, whether by breach of this Agreement, including breach of warranty, or in tort (including negligence), even if such party has been previously advised of the possibility of such damage. These limitations shall apply notwithstanding any failure of essential purpose of any limited warranty or remedy.

Article 7. Term and Termination

7.1 Term. Unless this Agreement is amended according to Section 8.14, extended as provided in Section 7.7 or terminated according to this Article 7, the parties' obligations according hereto shall begin on the date the first vehicle is placed in service and end on the 12-month anniversary of such date (the "**Term**").

7.2 Dispute Resolution. The parties shall endeavor to resolve any disputes under this Agreement first by informal discussion and exchange of documents. If the dispute cannot be resolved after 30 days of such discussion, the parties may agree to proceed to mediation or arbitration but shall not be obligated to do so. Nothing in this Agreements is intended to limit any legal rights or remedies held by either of the parties.

7.3 Termination for Cause. If an event occurs that may reasonably be deemed a breach of this Agreement, Client may terminate this Agreement. Before so terminating, Client shall notify Vendor in writing of such breach and provide Vendor with thirty (30) days to cure such breach. If, after such 30-day period, Vendor has not cured the breach to Client's reasonable satisfaction, Client may notify Vendor that this Agreement shall be terminated and, thereafter, neither party shall have any further obligation to the other by reason of this Agreement. If any of the Fees have been pre-paid, Vendor shall return the amount of such pre-paid Fees applicable to the Services expected to be delivered after such termination.

7.4 Termination for Convenience. Except as is provided in Section 7.3, Client may terminate this Agreement for any reason upon at least 30 days' written notice to Vendor; however, in such case, Client shall be obligated for all of the Fees that remain unpaid.

7.5 Insurance Lapse. Vendor maintains various liability and physical damage policies for the operation of

the Services; however, the term of the insurance may not coincide with the Term. Should insurance not be available on commercially reasonable terms, or if Vendor at its option declines to renew the insurance, Vendor may, in its sole discretion, adjust the Fees for any increase in the cost of providing the insurance coverage or terminate this Agreement without penalty. If Vendor opts to so terminate, any periodic amounts due and payable shall be prorated to the final day of the Service is delivered, provided, however, that any of the Fees set forth on Exhibit B under "One-time Setup and Configuration" or shall be deemed earned in full and non-refundable.

7.6 Termination for Losses. Vendor may terminate this Agreement, at its sole option, if its loss ratio exceeds 47 percent of the Monthly Subscription per Vehicle as listed in Exhibit B (not including the One-time Setup and Configuration costs). Losses include, but are not limited to, costs to repair damaged vehicles, unrecovered driver liabilities, costs related to uninsured drivers, and costs exceeding payments made by drivers per Vendor's posted fines and fees schedule.

7.7 Extended Term. Client and Vendor may mutually agree to extend the Term. No less than 30 days prior to the expiration of the Term, Vendor will submit to Client a copy of that attached hereto as Exhibit C (the "**Term Extension Document**"). If Client desires to extend the Term, Client shall sign and return the Term Extension Document to Vendor prior to the end of the Term.

Article 8. Miscellaneous

8.1 Independent Contractors. The relationship between the parties to this contract to each other is that of independent contractors. The relationship of the parties to this contract to each other shall not be construed to constitute a partnership, joint venture, or any other relationship, other than that of independent contractors. Neither party has the authority to bind the other or to make any commitment or obligation on behalf of the other. All employees retained by Vendor with respect to the performance of the Services shall be employees of Vendor and not of Client.

8.2 Liability Insurance. Vendor shall maintain general liability on an occurrence form with limits not less than $1,000,000 per occurrence for bodily injury and property damage liability combined with a $2,000,000 annual policy aggregate naming Client as an additional insured.

8.3 Tax Duties and Responsibilities. Vendor is responsible for the payment of all required taxes related to its operations, whether federal, state, or local in nature, including, but not limited to, income taxes, social security taxes, unemployment compensation taxes, and any other fees, charges, licenses, or other payments required by law relating to Vendor's operations. However, unless otherwise stated, Fees do not include any sales taxes, levies, duties or similar governmental assessments. The Subscription does not include any governmental fees or charges imposed after the start of the Term.

8.4 Compliance with Law. Vendor shall, at all times during the Term, and at its own expense, comply with all applicable federal, state, and local laws, rules and regulations, and shall maintain in force all licenses and permits required for performance under this Agreement.

8.5 Force Majeure. Should either party be delayed or prevented in whole or in part, from performing any obligation or condition hereunder as a result of any force majeure, such party may not be liable for any damages as a result of such delay or nonperformance and such delay or nonperformance may not constitute default hereunder or provide grounds for termination of this Agreement. The term "force majeure" as used above shall mean acts of God, strikes, lockouts, war, riots, civil commotion, pandemics, fire, vandalism, governmental restraint or not being deemed an "essential business" (or equivalent) during a period of government-imposed business closure and other causes beyond the reasonable control of the delayed party. In the event of any such delay, the date and time of performance shall be extended for a period equal to the time lost by reason of delay.

8.6 No Waiver. The failure of either party to partially or fully exercise any right or the waiver by either party of any breach shall not prevent a subsequent exercise of such right or be deemed a waiver of any subsequent breach of the same or any other term of this Agreement.

8.7 Binding Agreement. This Agreement shall be binding upon and inure to the benefit of each of Vendor and Client and their respective permitted successors and assigns.

8.8 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall constitute an original, and all of which together shall constitute one and the same instrument.

8.9 Notices. Any notice required or permitted to be sent shall be in writing and shall be sent in a manner

requiring a receipt or confirmation such as facsimile transmission, electronic mail, FedEx or like courier delivery, or if mailed, then mailed by registered or certified mail, return receipt requested. Notice is effective upon receipt. Notices shall be sent to the addresses first set forth above to the attention of the signatories of this Agreement. Notices shall be deemed given on the date of actual receipt (or refusal of delivery) when personally delivered, upon confirmed transmission when sent by facsimile or electronic mail, one day after having been sent when sent by commercial overnight delivery, and three (3) days after been mailed when sent by certified or registered mail.

8.10 Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Ohio without regard to principles of conflict of laws. Any dispute arising under or out of this Agreement shall be brought in a state or federal court having jurisdiction in Lorain County, Ohio.

8.11 Headings. The article, section and other headings and any table of contents listing the same contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

8.12 Gender. Wherever the context of this Agreement so requires or permits, the masculine herein shall include the feminine or the neuter, the singular shall include the plural, and the term "person" shall also include "corporation" or other business entity.

8.13 Exhibits. All Exhibits referred to in this Agreement are attached hereto and are hereby incorporated herein and made a part hereof. All matters disclosed in any Exhibit to this Agreement shall be deemed to be disclosed in all of the Exhibits to this Agreement.

8.14 Entire Agreement. This Agreement, including any Exhibits attached hereto, sets forth the entire agreement between the parties with regard to the matters set forth herein and supersedes all prior negotiations, understandings and agreements between the parties. No amendment or modification of this Agreement shall be made except in a writing signed by both of the parties hereto. It is also understood and agreed that no usage of trade or other regular practice or method of dealing between the parties hereto shall be used to modify, interpret, supplement, or alter in any manner the terms of this Agreement. Except as otherwise set forth in Section 7.7, the terms and conditions contained in this Agreement shall prevail over any terms and conditions of any purchase order, acknowledgment form or other instrument.

8.15 Vendor Indemnification. Vendor shall indemnify, defend and hold harmless Client and all of its affiliates, officers, elected and appointed officials and employees from and against all demands, claims, actions and causes of action, payment, charges, judgments, assessments, liability, damages, penalties, fines, costs and expenses, and attorneys' fees and expenses arising out of or resulting from (a) any breach of representation, warranty or agreement of Vendor contained herein; (b) any act or omission by Vendor delivering the Services; (c) any lawsuit from any third-party regarding personal injury arising out of or in connection with Vendor's delivery of the Services.

CITY OF OBERLIN, OHIO

By: _____

Print Name: Rob Hillard

Title: City Manager

SWAY MOBILITY INC.

By: _____

Print Name: Michael Peters

Title: Chief Executive Officer

Exhibit A

The Services shall be performed at the following locations:

Oberlin City Hall Parking Lot – 85 South Main Street

George Abrams Pavilion – 273 South Main Street

Under this Agreement, Vendor shall:

1. supply one (1) electric vehicle per location for the Term;
2. be responsible for all costs associated with the vehicle, including registration fees;
3. supply and manage the hardware and software necessary for authorized users to access and operate the vehicles (and, in doing so, endeavor for each such user to be a resident of the City of Oberlin or a student at Oberlin College);
4. operate the electric vehicle supply equipment ("**EVSE**") at each location identified above;
5. provide to Client quarterly reports on the use of each vehicle and non-identifiable aggregated user data; and
6. supply, or work with Client's marketing group to supply, content for Client's marketing efforts described below.

Under this Agreement, Client shall:

1. provide a designated, reserved parking space for each vehicle provided by Vendor under this Agreement that will include an EVSE for exclusive use of Vendor's vehicles;

a. purchase and install the EVSE;

2. provide marketing efforts to inform potential users about the availability and location of Vendor's vehicles;
3. provide information about the car share program through Client's existing marketing channels; and
4. determine whether or not it will pay the cost of the motor vehicle record check required by Vendor's insurance.[1]

Under this Agreement, Client and Vendor shall work together to:

1. design and install limited branding on the vehicle consistent with Client's branding guidelines;
2. design signage and striping for the spaces in which Vendor's vehicles are to be parked.

[1] Potential users of Vendor's vehicles are required to pay for retrieval of their motor vehicle record from the state bureau of motor vehicles where the license was issued. Current fees for this check are $8.00 for Ohio licenses. Vendor uses a third-party service provider for non-Ohio licenses.

Exhibit B

Fees and Payment Schedule

One-time Setup and Configuration

$7,200 due within 15 days of execution
$5,410 for the supply and delivery of two EVBox BusinessLine EV Chargers

Monthly Subscription per Vehicle

The subscription amount is calculated as follows:
Monthly Subscription Cost: $1,760.83
= Total Monthly Cost to Client

Subscription to be paid monthly by first day of the subscription month based on the following schedule:
Month 1: $11,344.16
Months 2-12: $1,344.16

Driver Fees[2]

Current driver fee per hour is USD $8.00
plus the Fines & Fees schedule at swaymobility.com/fees-and-fines

Revenue Split

Annually at the end the 12-month month subscription period, Vendor will remit to Client
50% of each previous month's gross collected revenue
net of merchant services fees
minus chargebacks, uncollected fines/tickets, and refunds
minus non-revenue use (complementary use)
minus any Insurance Overage for the 12-month period
plus or minus the actual cost of electricity over the estimate for the period

Insurance Overage

Annual Subscription includes 5,000 miles per year
with additional miles charged at $0.36/mile
adjusted annually based on premium

[2] Drivers are charged per hour with a minimum of at least 30 minutes. Drivers are charged for the time reserved, regardless of actual use, plus any time that exceeds the reserved time. While time is currently calculated in 15-minute increments, technical limitations may dictate the method according to which time actually calculated. Drivers are also subject to additional fees and fines at the rates described at swaymobility.com/fees-and-fines (which may be updated from time to time).

Exhibit C

Term Extension Document

The party identified below as "**Client**" and as "**Vendor**" hereby agree to extend the term during which that certain Electric Vehicle Car Share Subscription Agreement (the "**Agreement**") entered into by Client and Vendor applies for an additional 12-month period.

Such additional period shall begin at 12:00 AM on the day immediately following the end of the Term (as that word is defined in the Agreement) and end at 11:59 PM on _____, 202__ (the "**Extended Term**").

Client and Vendor acknowledge that certain costs and expenses may increase over the Term and Extended Term. In consideration for extending the Term, Client and Vendor agree that, for the Extended Term and thereafter, Exhibit B to the Agreement is hereby deleted and replaced with the following:

Monthly Subscription per Vehicle: $_____

Revenue Split
Annually at the end the 12-month month subscription period, Vendor will remit to Client:
50% of each previous month's gross collected revenue
net of merchant services fees
minus chargebacks and refunds
minus non-revenue use (complementary use)
minus any Insurance Overage
minus any increase in Operating Expenses

Insurance Overage
Annual premium increase of $_____
Annual Subscription includes __,000 miles per year
with additional miles charged at $0.___/mile

Operating Expenses
Increases due to governmental regulation, registration fees, or other mandatory fees/requirements: $_____
Additional services requested by Client: $_____
Inflation adjustment, not to exceed CPI (All Urban Consumers, Series CUUR0000SA0): $_____

Intending to be legally bound, Vendor and Client hereby agree to that set forth above.

Vendor:	Client:
Sway Mobility Inc.	City of Oberlin, Ohio
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
	Date: _____