

Reviewed and Approved by Interim Executive Director: Craig Nakamoto  
April 6, 2022

**FOR ACTION**

**I. REQUEST**

Consider Authorizing the Interim Executive Director to Amend the Right of Entry Agreement with Bikeshare Hawaii, Dated June 14, 2017, for the Operation and Maintenance of a Bikeshare Program Located at Kolowalu Park, Honolulu, Hawaii, Tax Map Key No. (1) 2-3-004: 076 (portion), to Extend the Term by Three (3) Additional Years.

**II. BACKGROUND**

On June 7, 2017, the Hawaii Community Development Authority (HCDA) Kakaako Board approved a no rent Five-Year Right of Entry Agreement (ROE 7-17) with Bikeshare Hawaii for the installation, operation, and maintenance of a new bikeshare station at HCDA's Kolowalu Park.

Today, Bikeshare Hawaii operates over 130 self-service "Biki Stops" throughout urban Honolulu, with over 10,000 active users. Its Kolowalu Park Biki Stop logged over 109,000 trips since being installed in 2017. According to Bikeshare Hawaii, the majority of those trips were taken by local residents (member users) instead of visitors.

On February 25, 2022, Bikeshare Hawaii requested an additional three-year extension of ROE 7-17 under the same terms and conditions, including free rent. Bikeshare Hawaii notes that its Biki stations are hosted by local partners and have been rent-free since the start of operations. See, Exhibit "A".

If ROE 7-17 is not amended to extend the term, it will terminate on May 31, 2022, and the Biki Stop must be removed.

**III. DISCUSSION**

Bikeshare Hawaii's Biki system is consistent with HCDA's Mauka Area Plan. The Transportation section of the Mauka Area Plan includes provisions for multi-modal transportation (pedestrians, cars, buses, and bicycles) to move people and goods safely and efficiently, and to service the demands of district activities.

In addition to enhancing connectivity, bikeshare aids in creating a sense of place and improving the quality of urban living. The Mauka Area Plan states, "The plan for roads and transportation reflects the goal of creating a high-quality urban community, as well as the goal of providing for efficient movement of traffic. The use and form of the public street space are considered in relation to adjoining residential and commercial buildings and as an integral part of the parks and open space system."

Bikeshare Hawaii reports that the use of the Kolowalu Park Biki Stop avoids 44 auto trips per day and helps to open up 20+ parking spaces for those travelling regionally into Kakaako. The current Kolowalu Park Biki Stop also does not displace any existing car parking and is located solely within an otherwise underused makai portion of Kolowalu Park.

ROE 7-17 requires Bikeshare Hawaii to maintain the premises underlying the Biki Stop, and thus far there have been no complaints or problems associated with such maintenance. The Biki Stop has been well used by Kolowalu Park and Ward Village patrons and has been well received for the past five years.

Aside from extending the term for another three years, all other terms and conditions of ROE 7-17 shall remain unchanged. The form of the draft First Amendment of ROE 7-17 is attached as Exhibit "B," subject to approval by the HCDA deputy attorney general.

#### **IV. RECOMMENDATION**

It is recommended that the Board Authorize the Interim Executive Director to Amend the Right of Entry Agreement with Bikeshare Hawaii, Dated June 14, 2017, for the Operation and Maintenance of a Bikeshare Program Located at Kolowalu Park, Honolulu, Hawaii, Tax Map Key No. (1) 2-3-004: 076 (portion), to Extend the Term by Three (3) Additional Years and undertake all tasks necessary to effectuate the purpose(s) of this For Action.

**Attachments:**

Exhibit A – Biki Extension Request Letter Dated February 25, 2022

Exhibit B – DRAFT First Amendment to ROE 7-17

Prepared By: Lindsey Doi, Asset Manager



Reviewed By: Craig Nakamoto, Interim Executive Director





**Board of Directors**

Greg Gaug, Chair  
Rick Egged  
Josh Feldman  
Marcy Fleming  
Danielle Harris  
Randolph Moore  
Michael Robinson

Todd Boulanger,  
Executive Director

Mail:  
PO Box 2362  
Honolulu, HI 96804

Office:  
529 Koula St., Bay 2  
Honolulu, HI 96813

GoBiki.org  
@GoBikiHI

HCDA  
547 Queen Street,  
Honolulu HI 96813

Date: 2022.02.25

Topic: Request for continued terms of HCDA ROE 07-17 for Biki Stop at Kolowalu Park.

Aloha.

Bikeshare Hawaii (BSH), a registered Hawaii non-profit, requests HCDA to continue the current terms (no cost use, etc.) for the ROE 07-17 for the Biki Station 237 at Kolowalu Park, 1150 Queen Street, until 31 May 2025.

If this is mutually acceptable, please indicate your acknowledgement by signing below.

Mahalo nui loa,

Todd Boulanger  
Executive Director  
Bikeshare Hawaii  
[todd@bikesharehawaii.org](mailto:todd@bikesharehawaii.org)  
808-275-7810 / 808-347-5001 alt

**Background:**

Bikeshare Hawaii's mission is to provide the public with high quality, convenient, reliable, and affordable bikeshare services that enhance community health and livability, strengthen our public transportation system, and connect people to more places where they live, work and play. All 130+ Biki Stations are hosted by our hui of local partners without rent or other payments since day 1 of operations.

Bikeshare services support's HCDA's vision of Kakaako, "a mixed-use district whereby industrial, commercial, residential, and public uses may coexist compatibly within the same area." See our 2020 annual report (shared) and next page for more information.

Receipt of this letter and contents are acknowledged:

This \_\_\_\_\_ 2022

By \_\_\_\_\_  
Deepak Neupane, P.E., AIA  
Executive Director



#### HCDA KOLOWALU PARK BIKI STOP #237 REPORTING:

The Biki Stop at Kolowalu Park had **109,220** trips since being installed, a majority of these trips are by member plan users which are local residents (vs visitors, aka 'casual riders').

Biki trips in Kakaako are typically for commuting, shopping locally or visiting community amenities (parks etc.). The Ala Moana/ Kakaako district generates **27.09%** of all Biki trips and **15.27%** of all Biki members reside in the Kakaako area.

The use of this bikeshare station avoids **~44 auto trips per day** and helps open up to **~20 parking spaces** for those travelling regionally into Kaka'ako. The later will be even more important for the next two years, as the HART utility relocation work re-starts and displaces on-street parking in the area and places more pressure on remaining parking supply. This station location does not displace any existing car parking.

Members report more frequent combining Biki trips with transit (**19% in 2020** vs 14% in 2018). Furthermore, during the same period members reported a higher proportion of households reducing car ownership at **11%** vs. 8%. Additionally, this station's bike trips help avoid up to **320,000 pounds** of CO2 which would have been created if these bike trips were exchanged for car trips. These trips are also an equivalent to over **16,000** gallons of gasoline not imported into Hawaii, and it is important to reduce this demand, as over a third of our state's crude oil is currently sourced from Russia.

Thus, HCDA's generous support of this bikeshare station location helps the district of Kakaako and the State meet its pressing energy and environmental objectives and its recent climate resiliency goals.

FIRST AMENDMENT TO REVOCABLE RIGHT OF ENTRY (ROE 7-17)

This First Amendment to Revocable Right of Entry 7-17 (“**First Amendment**”) is executed this \_\_\_\_\_ (“**Execution Date**”), by and between the **HAWAII COMMUNITY DEVELOPMENT AUTHORITY** (“**HCDA**” or “**GRANTOR**”), a body corporate and a public instrumentality of the State of Hawaii, and **BIKESHARE HAWAII**, a Hawaii nonprofit corporation located at 999 Bishop St., Ste 1202, Honolulu, Hawaii 96813 (“**GRANTEE**”) (GRANTOR and GRANTEE are each called a “**Party**” and collectively called “**the Parties**”).

WHEREAS, the Parties entered into a Revocable Right of Entry (ROE 7-17) on June 14, 2017 (hereinafter, the “**ROE**”), a copy of which is attached hereto as Exhibit “A”; and

WHEREAS, at its Board meeting held on April 6, 2022, the HCDA Board (the “Board”) authorized the Executive Director to amend ROE 7-17 to extend the term for an additional three (3) years; and

WHEREAS, the Parties desire to extend the term of the ROE for an additional three (3) years;

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, the Parties hereto agree as follows:

1. Section 3 of the ROE is hereby replaced in its entirety as follows:

**3. Term and Duration.** The term of this ROE shall commence at 12:00 a.m. on June 7, 2017 (“**Commencement Date**”) and terminate at 11:59 p.m. on May 31, 2025 (“**Termination Date**”). This ROE shall automatically terminate on the Termination Date, unless earlier revoked as provided herein. GRANTEE agrees to be bound by the terms and conditions of the ROE and any written amendments to this ROE signed by both Parties.

2. This First Amendment, upon execution by the Parties, shall be effective as of the date stated above. This First Amendment fully and completely expresses the agreement of the Parties and shall not be modified or amended except by written agreement executed by each of the Parties hereto.
3. This First Amendment may be executed in any number of counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute one and the same instrument.
4. This First Amendment constitutes the entire agreement and understanding between the Parties and shall supersede any and all prior communications,

representations or agreements, both verbal and written, between the Parties regarding the amendment of the ROE.

5. Except as amended and/or modified by this First Amendment, all other terms and provisions of the ROE shall remain in full force and effect, unaltered and unchanged by this First Amendment. Whether or not specifically amended by this First Amendment, all of the terms and provisions of the ROE are hereby amended to the extent necessary to give effect to the purpose and intent of this First Amendment.

IN WITNESS WHEREOF, the Parties have caused this First Amendment to be executed as of the day and year first above written.

**HAWAII COMMUNITY  
DEVELOPMENT AUTHORITY**

By: \_\_\_\_\_  
Craig K. Nakamoto  
Interim Executive Director

**BIKESHARE HAWAII**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
Deputy Attorney General

## Exhibit A

### REVOCABLE RIGHT OF ENTRY (ROE 07-17)

By this REVOCABLE RIGHT OF ENTRY AGREEMENT (the "ROE") made and executed this 14<sup>th</sup> day of June 2017, the **HAWAII COMMUNITY DEVELOPMENT AUTHORITY ("HCDA" or "GRANTOR")**, a body corporate and a public instrumentality of the State of Hawaii, hereby grants to **BIKESHARE HAWAII**, a Hawaii nonprofit corporation located at 999 Bishop St., Ste 1202, Honolulu, Hawaii 96813 ("**GRANTEE**"), a nonexclusive right of entry upon and use of the Premises (as defined below) subject to each of the following terms and conditions:

1. **Grant of Right-of-Entry.** The HCDA hereby grants to GRANTEE and all of its members, employees, officers, directors, representatives, agents, invitees, guests, and independent contractors (collectively, "**Permitted Persons**") a nonexclusive Right of Entry to enter upon the Premises (as defined below) for the sole purposes set forth herein. GRANTEE is responsible for communicating and explaining the terms and conditions of this ROE to all Permitted Persons and ensuring compliance by Permitted Persons with such terms and conditions.

2. **Premises.** This ROE shall pertain to an approximately 500 square feet of public park space located at 1150 Queen Street, Honolulu, Hawaii, 96814 and identified by Oahu Tax Map Key (1)-2-3-004:076 por. (the "**Premises**"). The Premises is more particularly shown and depicted on the map attached to this ROE as Exhibit "A" and made a part hereof. Any question or conflict regarding the boundary of the Premises shall be unilaterally resolved by GRANTOR.

3. **Term.** The term of this ROE shall commence on June 9, 2017 (the "**Commencement Date**") to May 31, 2020 (the "**Termination Date**"). This ROE may be extended for two (2) additional one (1) year terms by mutual written agreement, subject to possible rent negotiations with HCDA. If not mutually extended, this ROE shall automatically terminate on the Termination Date, unless earlier revoked as provided below. GRANTEE agrees to be bound by the terms and conditions of the ROE and any written amendments to this ROE signed by both Parties.

4. **Use of Premises.** The ROE granted hereby shall be for the sole purpose of permitting GRANTEE to install, operate, and maintain a bikeshare program for use by the public for commuter, recreational and utilitarian bicycling as specified in Exhibit "B". GRANTEE is solely responsible for all maintenance and repairs to the Bikeshare station and Premises, including repairs due to vandalism. GRANTEE shall not alter, obstruct or impede any driveways, entrances, exits or other points of ingress or egress leading to the Premises.

5. **Acknowledgement of Use By Other Persons.** GRANTEE acknowledges that other persons or entities have the right to enter and/or use the Premises with the approval of the HCDA, and with the exception of the uses specified herein, GRANTEE

shall not unreasonably interfere with or impair the use and enjoyment of the Premises by such other persons or entities.

6. **Due Care and Diligence.** GRANTEE shall exercise due care and diligence in entering upon the Premises and shall not unreasonably disrupt or disturb the activities customary to the operations of the HCDA or its agents on the Premises, and GRANTEE shall exercise due care for public safety. At all times during the term of this ROE and upon the termination of this ROE, GRANTEE shall be responsible for: (a) removing any debris or trash deposited on the Premises; (b) repairing any damage to the Premises caused by its actions or the actions of third-parties due to GRANTEE's actions or inactions in securing the Premises; and (c) restoring the Premises to substantially the same condition it was in at the time of GRANTEE's entry onto the Premises, normal wear and tear excepted. This provision shall survive the termination of this ROE.

7. **Release and Waiver by GRANTEE.** GRANTEE expressly acknowledges and agrees that GRANTOR assumes no responsibility for any damages to person or property arising of this ROE. Any items left on the Premises, whether owned and/or operated by GRANTEE or Permitted Persons, are at the sole risk of the GRANTEE. GRANTEE expressly agrees that GRANTOR shall not be responsible for any loss or damage to any person or property, including by not limited to collision, fire, vandalism, theft or any other cause, nor for loss, damage or injury by or to other Permitted Persons or any other individual.

8. **Indemnity.** GRANTEE shall defend, indemnify and hold harmless the HCDA and the State of Hawaii, and their respective officials, directors, members, employees, and agents (collectively the "**Indemnified Parties**") from and against any and all claims, actions, penalties, damages, liabilities, costs and expenses for loss or damage, including property damage, personal injury and wrongful death, based upon or arising out of or in connection with: (a) GRANTEE's breach of this ROE; (b) any Permitted Person's tortious conduct or violation of law on or upon the Premises; (c) any injury sustained or suffered by a Permitted Person while on the Premises; and (d) any other act or omission in any way relating to or arising out of GRANTEE's entry and use of the Premises under this ROE (collectively, "**Covered Claims**"). GRANTEE shall also reimburse the HCDA for all its costs and expenses, including reasonable attorneys' fees, incurred in connection with the HCDA's defense of any Covered Claims. This provision shall survive the termination of this ROE. Notwithstanding anything to the contrary herein, GRANTEE shall not be liable for indemnifying the Indemnified Parties with respect to claims, actions, penalties, damages, liabilities, costs or expenses to the extent they are caused by the negligence or willful misconduct of any such Indemnified Parties.

9. **Insurance.** (a) GRANTEE shall obtain and maintain at all times during the term of this ROE, at its own expense, insurance coverage of the kinds and in amounts greater than or equal to those set forth below:

Commercial General Liability:



\$1,000,000 per occurrence and \$2,000,000 in the aggregate  
\$1,000,000 Completed Operations Aggregate Limit  
\$1,000,000 Each Occurrence Limit  
\$1,000,000 Personal & Advertising Limit

Umbrella Liability: \$2,000,000 Aggregate

**Worker's Compensation:**

Coverage A: As required by Hawaii Laws  
Coverage B: Employer's Liability:  
\$1,000,000 Bodily Injury by Accident Each Accident  
\$1,000,000 Bodily Injury by Disease  
\$1,000,000 Policy Limit and \$1,000,000 Each Employee

Automobile: \$1,000,000 per accident and \$2,000,000 in aggregate

- (b) Prior to GRANTEE's first entry onto the Premises, GRANTEE shall provide to the HCDA a certificate of insurance to evidence compliance with the insurance requirements set forth in subsection (a) above.
- (c) The insurance policies obtained by GRANTEE in accordance with subsection (a) above shall name the Hawaii Community Development Authority and the State of Hawaii and their respective officials, directors, officers, members, employees and agents as additional insureds.
- (d) The HCDA shall be notified at least fifteen (15) days prior to the termination, cancellation or any material change in GRANTEE's insurance coverage.
- (e) GRANTEE shall cover all injuries, losses or damages arising from, growing out of or caused by any acts or omissions of GRANTEE or Permitted Persons in connection with GRANTEE's use or occupancy of the Premises.
- (f) The procuring of such required policy or policies of insurance shall not be construed to limit GRANTEE's liability under this ROE or to fulfill the indemnification provisions and requirements of this ROE. Notwithstanding said policy or policies of insurance, GRANTEE shall be obligated for the full and total amount of any damage, injury, or loss caused by the negligence or neglect of GRANTEE or the Permitted Persons connected with this ROE.

- (g) GRANTEE shall keep such insurance in effect and the certificate(s) on deposit with the HCDA during the entire term of this ROE. GRANTEE shall furnish a copy of the policy or policies to the HCDA.
- (h) Failure of GRANTEE to provide and keep in force such insurance shall be regarded as a material default under this ROE and the HCDA shall be entitled to exercise any or all of the remedies provided in this ROE for default of GRANTEE.
- (i) The HCDA is a self insured State agency. GRANTEE's insurance or self-insurance shall be primary. Any insurance maintained by the State of Hawaii shall apply in excess of, and shall not contribute with insurance provided by GRANTEE.

The HCDA reserves the right to inspect and review all coverage, form, and amount of the insurance required by the above. If, in the HCDA's reasonable discretion, the above insurance does not provide adequate protection for the HCDA, it may require GRANTEE to obtain insurance sufficient in coverage, form, and amount to provide such adequate protection.

10. **Compliance with Laws and Regulations.** GRANTEE shall, at all times during the term of this ROE, observe and comply with all applicable laws, rules and regulations, whether County, State or federal, including but not limited to, the laws applicable to the use of the Premises and the securing of any and all necessary governmental and other approvals and permits for its use of the Premises, including, but not limited to, compliance with Hawaii Revised Statutes Chapters 6E and 269E-4.

11. **Prohibited Use.** Any use of the Premises not authorized herein shall constitute a material breach of this ROE and upon such breach, the HCDA may terminate this ROE and pursue any other remedies to which the HCDA is entitled by law; provided that, the HCDA shall first give GRANTEE notice thereof and afford GRANTEE forty-eight (48) hours to cure such breach.

12. **Improvements:** GRANTEE shall not construct any improvements of any kind or nature upon the Premises without the HCDA's express prior written consent, which consent may be granted or withheld in the HCDA's sole discretion. Any improvements, including but not limited to structures, erected on or moved onto the Premises by GRANTEE shall remain the property of GRANTEE and GRANTEE shall have the right, prior to the termination or revocation of this ROE, or within an additional period the HCDA in its discretion may allow, to remove the improvements from the Premises; provided, however, that in the event the GRANTEE shall fail to remove the improvements prior to the termination or revocation of this Permit or within an additional period the HCDA may, in its sole discretion, elect to retain the improvements or may remove the same and charge the cost of removal and storage, if any, to GRANTEE. This provision shall survive the termination of this ROE.

13. **No Lien.** GRANTEE shall not: (a) create, incur, or assume any attachment, judgment, lien, charge, or other encumbrance on the Premises or any improvements thereon; or (b) suffer to exist any such encumbrance other than one created, incurred, or assumed by the HCDA.

14. **Non-transferrable.** This ROE or any rights hereunder shall not be sold, assigned, conveyed, or otherwise transferred or disposed of without the HCDA's express prior written consent.

15. **Additional Terms and Conditions.**

- (a) No one may reside on the Premises, and the Premises may not be accessed for any other purpose except as authorized.
- (b) Plants, rocks, dirt, asphalt and other materials that are on or part of the Premises shall not be harmed or removed from the Premises.
- (c) The HCDA reserves the right to impose additional terms and conditions it deems reasonably necessary; provided that written notice of any such additional terms and conditions shall be provided to GRANTEE not less than thirty (30) days prior to their effective date and that any such additional terms and conditions shall not materially interfere with or impair GRANTEE's rights of use herein.

The HCDA reserves the right to impose additional terms and conditions, if deemed necessary.

16. **Termination.** Either Party may terminate this ROE at any time upon not less than sixty (60) days prior written notice.

17. **Notices.** Any notice, request, demand, or other communication required or permitted to be given or made under this ROE by either party hereto shall be in writing and shall be deemed to have been duly given or served if: (a) personally delivered; (b) sent by mail, postage prepaid and certified with return receipt requested; (c) transmitted by facsimile, or (d) sent by e-mail with request for delivery confirmation, at the address, facsimile number, or e-mail address given below:

Hawaii Community Development Authority  
Attention: Lindsey Doi, Asset Manager  
547 Queen Street  
Honolulu, Hawaii 96813  
Telephone: (808) 594-0300  
Fax: (808) 594-0299  
Email: [contact@hcdaweb.org](mailto:contact@hcdaweb.org)

Bikeshare Hawaii

Attention: Lori McCarney, CEO  
999 Bishop Street, Suite 1202  
Honolulu, Hawaii 96813  
Telephone: (808) 225-4725  
Email: [ben@bikesharehawaii.org](mailto:ben@bikesharehawaii.org)

18. **Headings/Captions.** The headings and captions of paragraphs or other parts hereof are for convenience of reference only and are not to be used to construe, interpret, define, or limit the paragraphs to which the respective headings and captions may pertain.

19. **Governing Law.** This ROE shall be governed by and construed under the laws of the State of Hawaii.

20. **Representation on Authority of Parties/Signatories.** Each person signing this agreement represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this agreement. Each party represents and warrants to the other that the execution and delivery of the agreement and the performance of such party's obligations hereunder have been duly authorized and that the agreement is a valid and legal agreement binding on such party and enforceable in accordance with its terms.

21. **Counterparts.** This ROE may be executed in several duplicate counterparts and such counterparts, when executed, shall constitute a single agreement.

22. **Entire Agreement.** This ROE constitutes the entire Agreement and understanding between the Parties and shall supersede any and all prior communications, representations, or agreements, both verbal and written, between the Parties regarding the use of the Premises. This ROE cannot be modified except by a written instrument signed by both Parties.

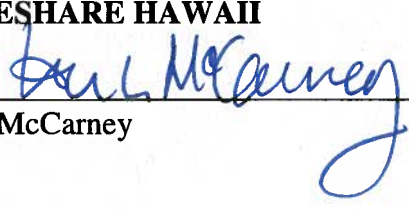
**[SIGNATURES APPEAR ON FOLLOWING PAGE]**

IN WITNESS WHEREOF, the HCDA and GRANTEE have caused this ROE to be executed as of the day and year first above written.

**HAWAII COMMUNITY  
DEVELOPMENT AUTHORITY**

By:   
Jesse K Souki  
Executive Director

**BIKESHARE HAWAII**

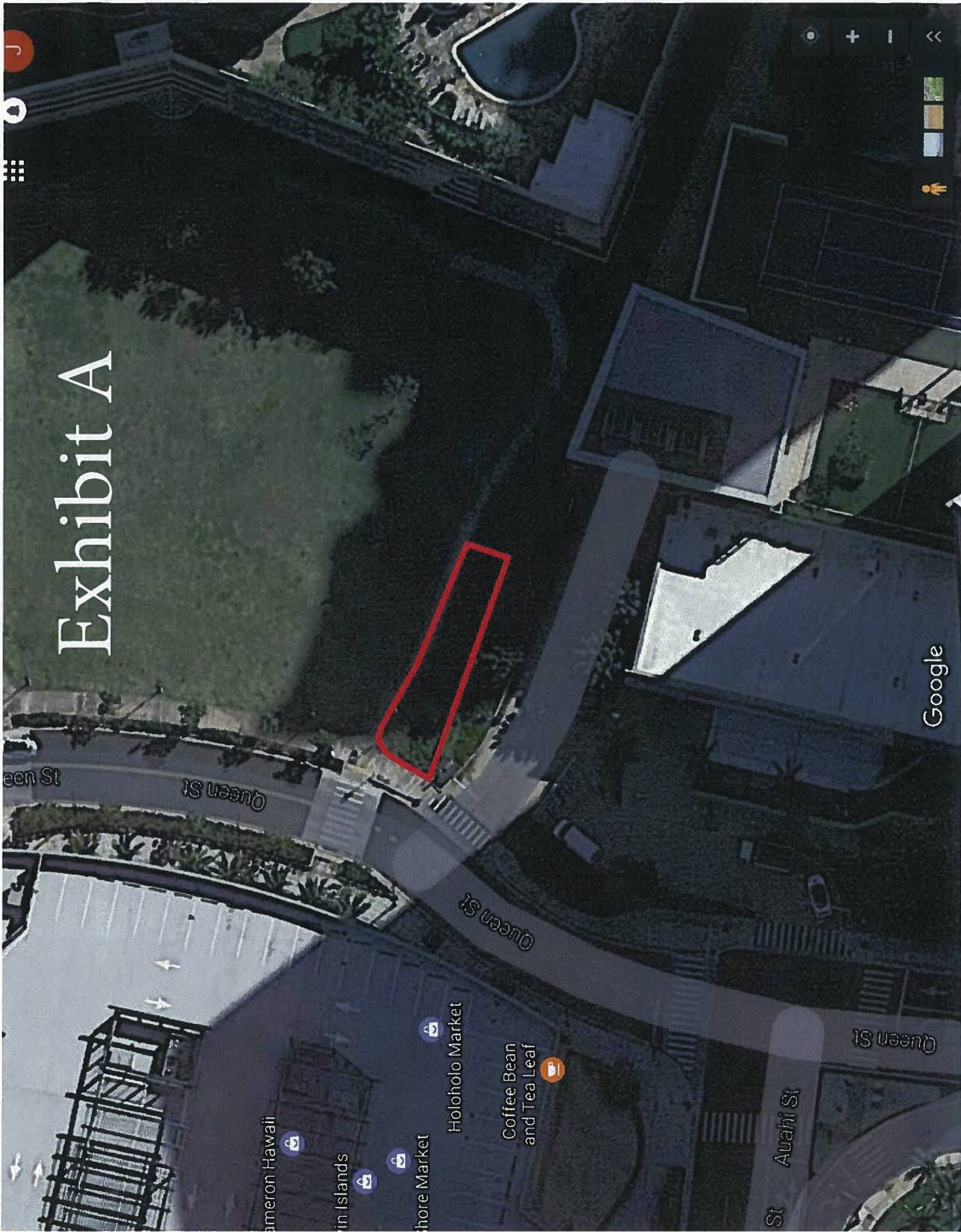
By:   
Lori McCarney  
CEO

APPROVED AS TO FORM:

  
Deputy Attorney General

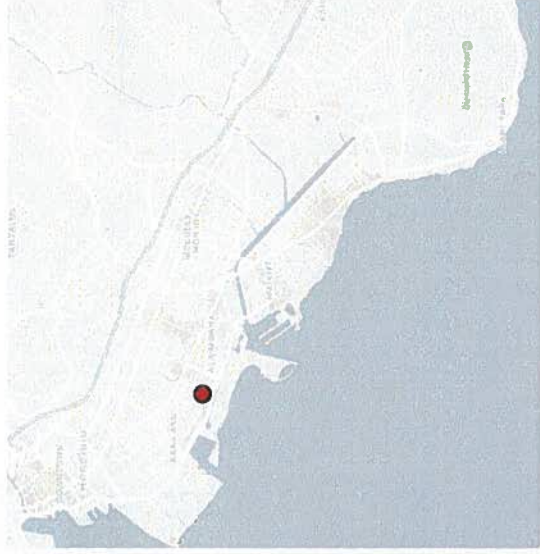


# Exhibit A





Off-street station in Kolowalu Park near Queen Lane and Auahi



**Location:** off-street in the park on the east side of Queen Lane north of Auahi

**Type:** off-street station

**Owner:** HCDA

**Size:** 23 docks, 1 kiosk

**Station:** standard station with 90-degree docks

**Power Source:** solar

**Orientation:** bikes pull to the left (towards the path)

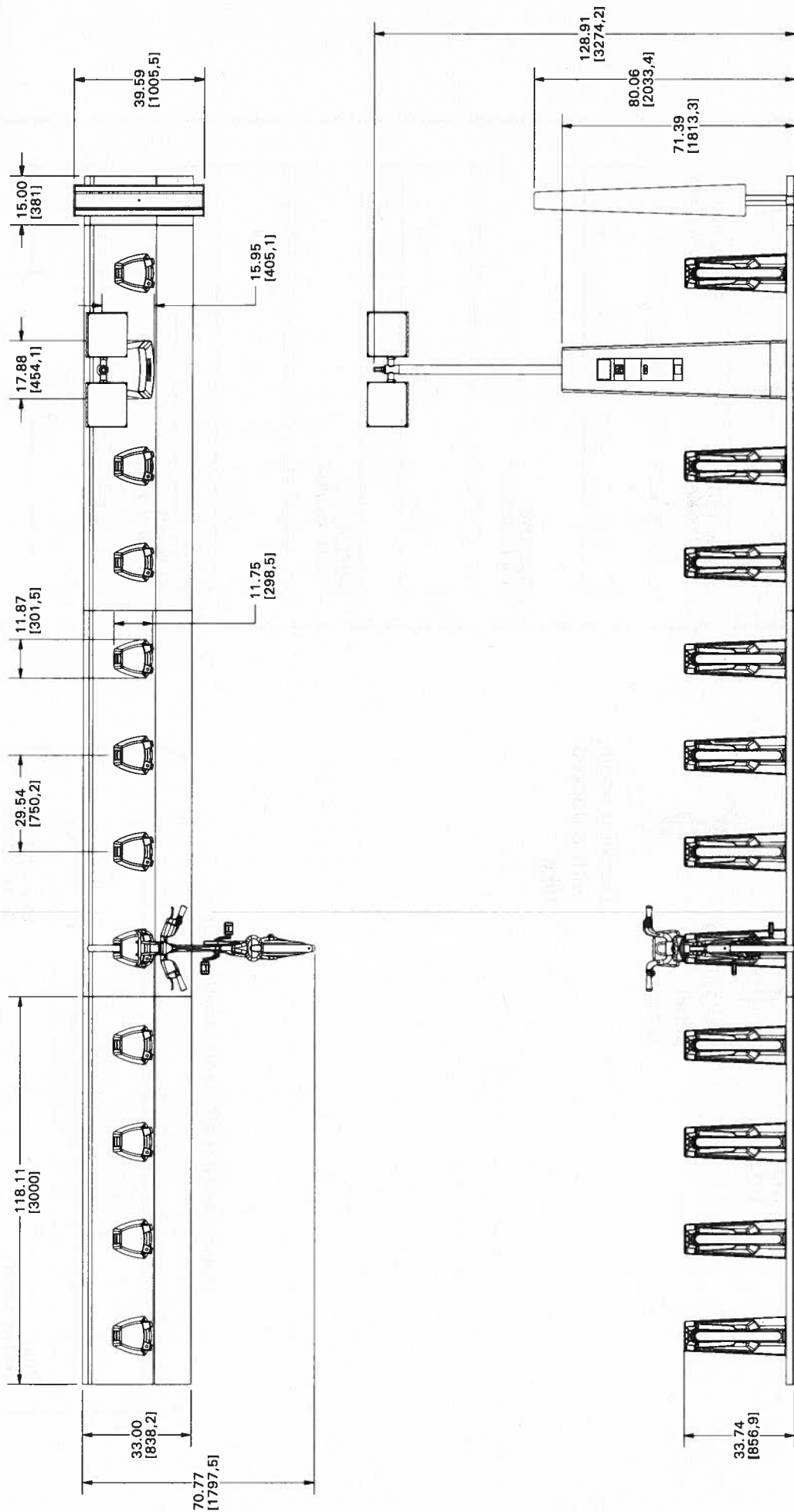
**Installation notes:** Remove landscaping and potentially make ground surface improvements (e.g., concrete, gravel, turf, etc.) measurements are best estimates due to uneven ground surface; open space between station and path could be filled with planters, benches, etc.



**Bikeshare Hawaii**

Date: 04/17/17  
Version: 002  
Designed: JH  
Reviewed: JH

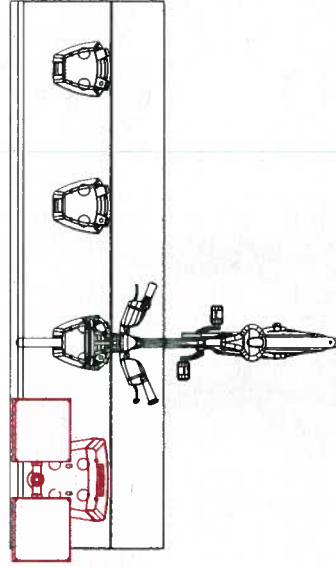
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Kolowalu Park



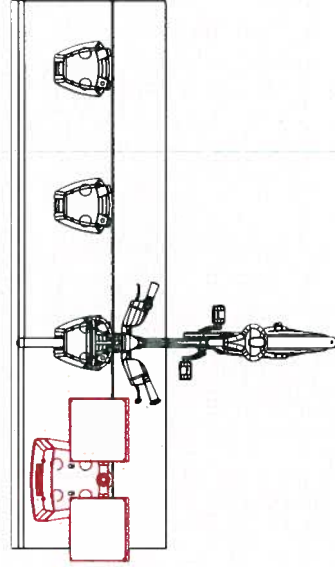


# Kiosk Orientation

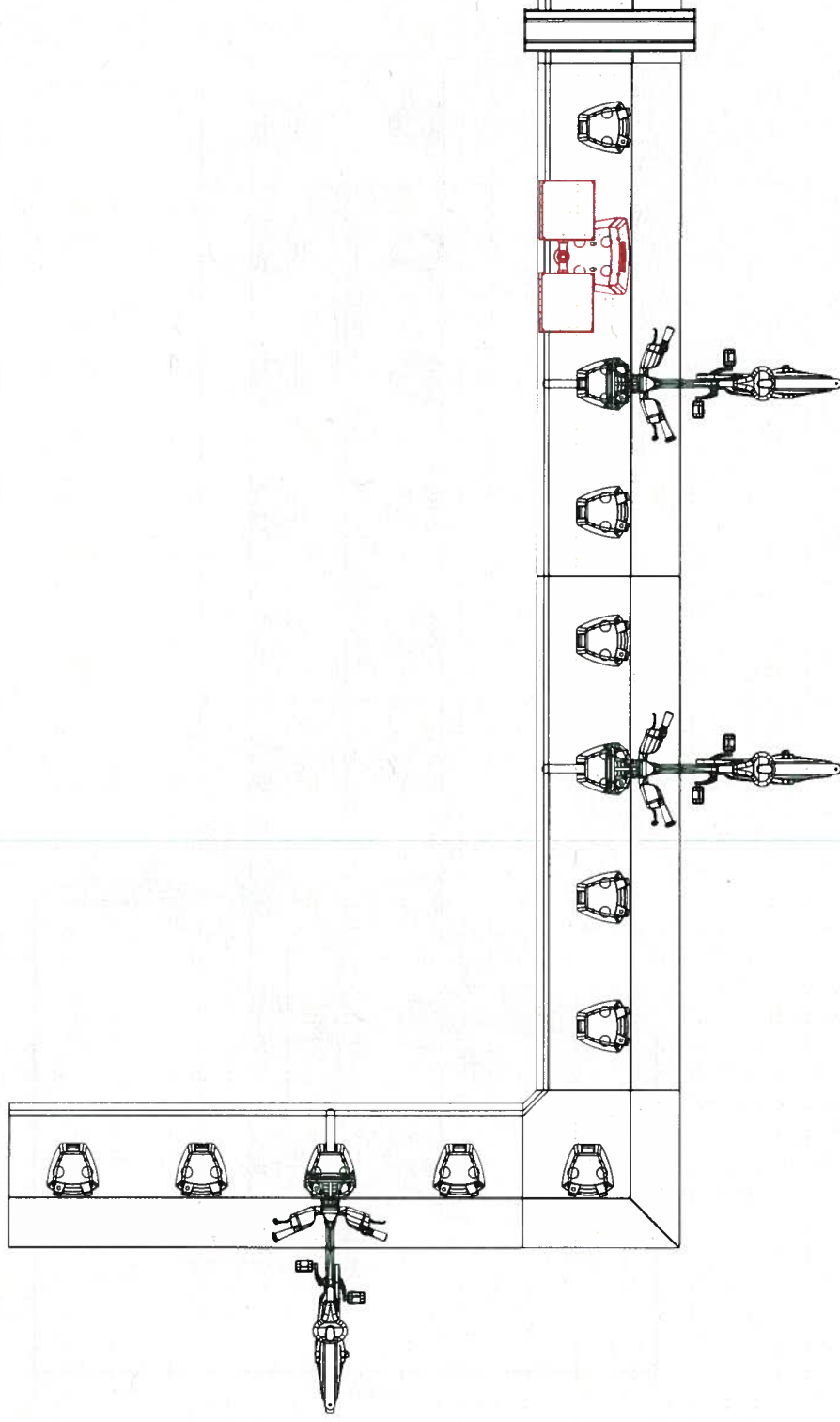
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Kiosk in forwards position

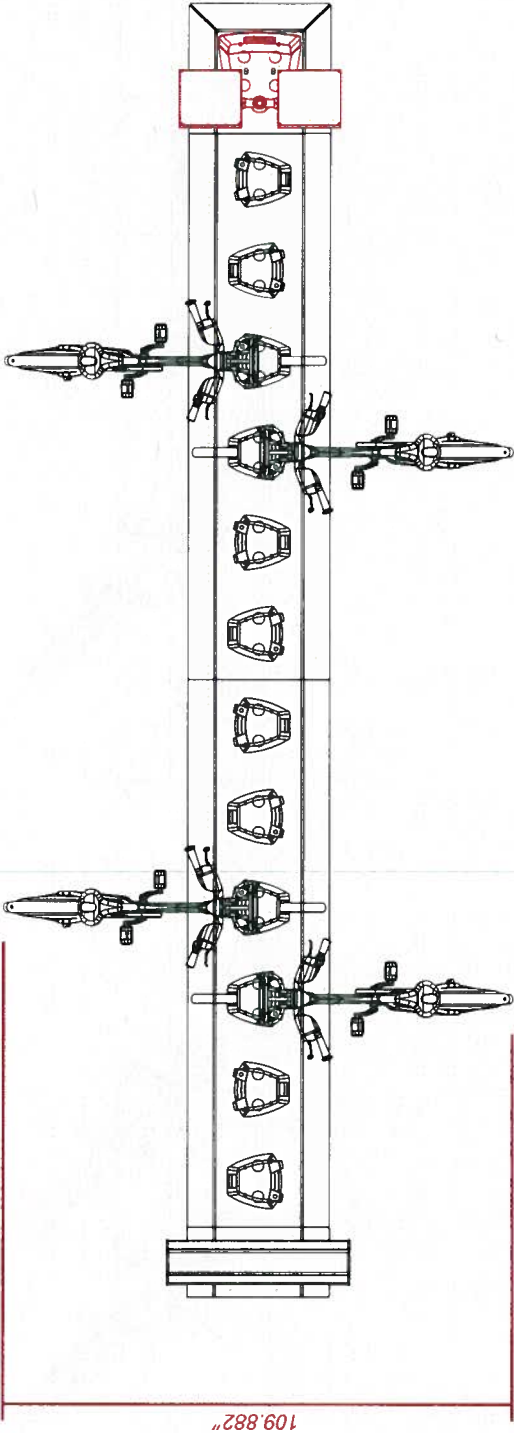


Kiosk in backwards position



# Dual Orientation

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# 45° right

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