

Office of the City Manager

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COUNCIL MEETING OF:

DEC 04 2018

OFFICE OF THE CITY CLERK
CITY OF BERKELEY

REVISED AGENDA MATERIAL

Meeting Date: December 4, 2018

Item Number: 8

Item Description: Adopt a shared electric scooter pilot program

Supplemental/Revision Submitted By: Phillip Harrington, Public Works Director

“Good of the City” Analysis:

The analysis below must demonstrate how accepting this supplement/revision is for the “good of the City” and outweighs the lack of time for citizen review or evaluation by the Council.

The revised report provides clarifications summarized below which may enable the item to remain on consent and allow Council to make more effective use of time at the meeting for other items on the agenda.

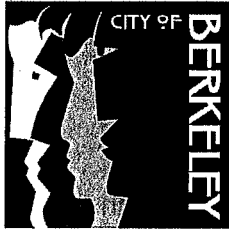
Staff would like to clarify that the terms and conditions in attachment A of the report are a draft that will be refined based on input received from potential operators and members of the public prior to bringing the final franchise agreements back to Council for consideration and adoption at a future public hearing. Examples of expected refinements include 1) addressing privacy concerns by requesting that user data is not only anonymous, but that trip data provided to the City is specified by block and not by address; 2) the pilot will require an objective study be completed and so that Council can use that data in determining whether to continue, modify, or terminate the program within 12 months of the start of the pilot program; 3) evaluation of the pilot should include a randomized survey of Berkeley residents, not just scooter users to weigh in on perceived benefits and impacts of the program; and 4) provide requirements and or incentives for scooter share companies and their customers to obey rules related to not riding on sidewalk and parking scooters in a manner that does not impede sidewalk users.

Consideration of supplemental or revised agenda material is subject to approval by a two-thirds roll call vote of the City Council. (BMC 2.06.070)

A minimum of **42 copies** must be submitted to the City Clerk for distribution at the Council meeting. This completed cover page must accompany every copy.

Copies of the supplemental/revised agenda material may be delivered to the City Clerk Department by 12:00 p.m. the day of the meeting. Copies that are ready after 12:00 p.m. must be delivered directly to the City Clerk at Council Chambers prior to the start of the meeting.

Supplements or Revisions submitted pursuant to BMC § 2.06.070 may only be revisions of the original report included in the Agenda Packet.



Office of the City Manager

CONSENT CALENDAR
December 4, 2018

To: Honorable Mayor and Members of the City Council
From: Dee Williams-Ridley, City Manager
Submitted by: Philip L. Harrington, Director, Department of Public Works
Subject: Adopt a Shared Electric Scooter Pilot Program - REVISED

RECOMMENDATION

Adopt a resolution approving the draft terms and conditions for a Shared Electric Scooter Pilot Franchise Program.

FISCAL IMPACTS OF RECOMMENDATION

The direct costs of the capital work, operations, and maintenance costs will fall solely upon the operators renting shared electric scooters. However, the pilot program development, implementation, and oversight on the organization of the public right-of-way, and other potential internal costs to the City, are expected to be recouped through the application fee, franchise fee, and operator provided public maintenance fund. All revenue and expenditure transactions will be posted in the General Fund (Fund 010) Public Works Department Transportation Division accounts with a project code specific to the pilot program.

The application fee is to be set at \$2,500, and will be collected from all applicants. The application fee is structured to recoup the staff time required in the preparation of the pilot and its pertinent documents, along with the operator selection process. The franchise fee is to be set at \$15,000 (per operator) and is to be charged annually (in the event the pilot is successful and Council wishes the program to continue). This is to cover Public Works' administrative costs including but not limited to oversight, data analysis, and auditing of the program. The franchise fee is also to cover costs accrued by other departments including but not limited to: Police Department and Code Enforcement for enforcement of existing laws regarding scooters, and 311, for routing any complaints about the scooters that were received by the City. The final potential fiscal impact would be covered under the "public maintenance fund", to be maintained at \$10,000 (per operator). This fund is set aside to recoup any staff time that may accrue due to the City needing to intervene and remove any improperly parked scooter not removed by the operator, the storage of any impounded scooters, or any staff time needed to organize the scooter parking within the public right-of-way. These actions are primarily the responsibility of the operator, but the public maintenance fund is to be used by the City in the event that an operator fails to remove a scooter deemed a nuisance and thus the City needs to intervene. The scooter operator must ensure that a balance

of \$10,000 be maintained in the public maintenance fund at the beginning of each fiscal quarter. Any uncharged balance in the public maintenance fund would be returned to the operator at the conclusion of the operator's franchise.

CURRENT SITUATION AND ITS EFFECTS

The Shared Electric Scooter Pilot Program franchise would enable private operators to make shared electric scooters available to the public in Berkeley. The program is anticipated to complement the City's current station-based bike share network by providing a shared mobility option in areas not served by a bike share station.

Selection of the Operators will be through a Request for Proposal process. The Shared Electric Scooter Pilot would last twelve (12) months, and the City would award franchises to no greater than three (3) operators. The City would cap the program at 1,200 scooters in total (400 scooters per operator). The City would request that the scooter operators initially launch with 200 scooters per operator (for a beginning total of 600 scooters in Berkeley), with the potential to increase that number to 400 per operator based on ridership and demand.

Operators would be required to detail stringent practices for educating their users on safe and legal scooter practices. Operators would be required to provide, at a minimum, detailed parking plans, maintenance plans, and remediation measures in the event scooters are parked improperly. The City would enforce these detailed operational plans, and operators would be held accountable for ensuring that the public right-of-way remains obstruction free. Operators would be required to staff a 24-hour customer service "hotline" to address and remediate the concerns of the public. Each scooter in operation would have a clearly marked identification number and Operator phone number, making reporting, tracking remediation, and possible impounding of the scooters possible. The City also retains the right at its sole discretion to revoke the franchise from any scooter franchise operator.

Scooter operators would also be required to submit plans for the equitable distribution of scooters, deeply discounted low-income memberships, rider surveys to determine trip purposes, and provision of adaptive scooters for use by the disabled community. All data collection and reporting would be done through an anonymized open-source industry standard format. Further details regarding the programmatic structure can be found outlined in Attachment 2 Program Terms and Conditions.

Upon conclusion of the selection process, a public hearing will be scheduled in connection with the award of franchise agreements for shared scooter services. At that time, Council will also be requested to make revisions to existing ordinances or adopt a new ordinance to regulate electric scooters.

BACKGROUND

In response to demand from scooter sharing companies and the public, the greater Bay Area cities have begun to implement pilot programs for the provision of shared electric

scooters. On July 10, 2018, City Council approved a referral to the City Manager to look into adopting an ordinance establishing a permit process for electric scooter sharing companies to operate in the public right-of-way. The City Charter sets out a franchise approval process for transportation services in the public right-of-way. The proposed program therefore uses the franchise agreement mechanism, rather than the issuing of permits, for the provision and regulation of shared scooters in the public right-of-way.

ENVIRONMENTAL SUSTAINABILITY

Increasing the number of Berkeley residents and visitors who utilize shared electric scooters, as an alternative to single-occupant automobile travel, will decrease greenhouse gas emissions. This will help the City achieve the Berkeley Climate Action Plan greenhouse gas emission reduction targets of 33% below year 2000 levels by the year 2020, and 80% below year 2000 levels by 2050.

RATIONALE FOR RECOMMENDATION

The shared scooter program would provide a mobility alternative for Berkeley residents. The dockless (free-floating) nature of the proposed program would allow these shared mobility devices to reach neighborhoods not currently serviced by the City's station-based bike share network. Not all Berkeley residents are physically able to ride a manually powered bicycle, so the electric propulsion of the scooters could provide a viable transportation alternative for some residents.

ALTERNATIVE ACTIONS CONSIDERED

The City of Berkeley could opt to not have a shared electric scooter program, which would potentially position the City behind the region in terms of offering alternative modes of transportation to its residents. Berkeley already sees spillover usage of these scooters from neighboring cities. Operators have been fairly diligent in removing unsanctioned scooters from Berkeley, resulting in a gap in service for many residents that reside near the Berkeley/Oakland border. By not having a scooter share program, Berkeley may potentially have a more difficult time in meeting its Climate Action Plan targets, while denying continuity of service for residents making trips between municipal borders.

CONTACT PERSON

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Beth Thomas, Principal Planner, Public Works, (510) 981-7068

Attachments:

1: Resolution

Exhibit A: Program Terms and Conditions

RESOLUTION NO. ##,###-N.S.

APPROVING A SHARED ELECTRIC SCOOTER PILOT PROGRAM

WHEREAS, on July 10, 2018 Council approved a referral to the City Manager to develop a pilot program for electric scooter sharing companies to operate on Berkeley's public streets; and

WHEREAS, the pilot franchise program is to last twelve (12) months, with the opportunity, but no guarantee, to renew; and

WHEREAS, the proposed privately funded shared scooter pilot program has no upfront City expenditure, aside from the compiling of staff documents, the selection process, and oversight of the program during its pilot launch; and

WHEREAS, up to three (3) scooter share operators will be allowed to operate in Berkeley, launching with a minimum of 200 scooters per operator, with the ability for that cap to dynamically rise or fall to no greater than 400 scooters per operator, based on ridership; and

WHEREAS, scooter share operators will be held responsible for educating and ensuring their users comply with all applicable federal, state, and local ordinances governing motorized scooters, lest they face a fine or revocation of franchise; and

WHEREAS, scooter share operators must provide a low-income pricing program and implement an adaptive electric scooter share program; and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley pursuant to Article XII, section 76 of the Charter and Berkeley Municipal Code section 9.60.050, that the Draft Shared Electric Scooter Pilot Program terms and conditions in Exhibit A are approved for use in developing franchise agreements with up to three (3) operators, with the proposed franchise agreements to be brought back to City Council for approval through a public hearing at a future date to be determined.

Draft Shared Electric Scooter Pilot Program Terms and Conditions

The following terms are a draft that will be refined based on input received from potential operators and members of the public prior to bringing the final franchise agreements back to Council for consideration and adoption at a future public hearing. Examples of expected refinements can be found as items within Exhibit A that are underlined and italicized.

1. General Overview

- a. 12 Month Pilot Franchise with opportunity to continue/renew
- b. Operators will pay: Application fee (\$2,500), Franchise fee (\$15,000 annually) and a 'Public Property Maintenance Fund' deposit (\$10,000)
- c. Up to three (3) operators will be granted a franchise
 - i. City will develop transparent and open franchise awarding process
- d. Program fleet total will be capped at 1,200 scooters for the pilot
 - i. Max 400 scooters per operator, set to fluctuate dynamically based on ridership
 1. Operator(s) will launch pilot with fleet size no greater than 200 scooters in service per operator (600 total) and the fleet size can increase or decrease to maintain 4 rides per scooter per day. (Total fleet size shall not rise above 1,200 scooters for duration of pilot).
- e. Operators are to carry insurance for each incident/claim: Workers Comp (\$1M), General Liability (\$2M, \$4M in aggregate for Bodily Injury, Property, Contractual Liability, Personal Injury), Auto Liability (\$2M), Professional Liability (\$1M), Cyber and Privacy Insurance (\$2M)
- f. Operator shall indemnify the City
- g. The City may terminate the franchise for cause at any time at their discretion
 - i. The City may also amend the terms of the franchise after the first 6 months to improve performance as need at its discretion
 1. The City would also conduct an ongoing study of the pilot's efficacy throughout the 12 month pilot, and recommend to Council if the pilot should be continued, be modified, or terminated before the pilot has expired. This is to be done so that Council may act if it so chooses to extend the pilot to baseline with no lapse in service.

2. Operations

- a. Operators must submit business, maintenance, recharging, outreach/education and distribution plan
 - i. Operators must detail material sourcing, construction, typical lifespan and end life/disposal plan for their scooters.
- b. Operators shall comply with all applicable federal, state, and local laws

- c. Operators shall be responsible for educating users of state and local laws governing powered scooters
 - i. e.g. Operational rules printed prominently on scooter (no riding on sidewalk)
- d. Operators will work with City Staff to create geo-fenced “no parking” zones, reduced speed zones, and areas of distribution (service area)
 - i. Percentage of scooters must be distributed to areas the MTC designates as “Communities of Concern” - and/or locations defined by City Staff
- e. Operators shall submit a plan to implement the use of an adaptive scooter for users with disabilities
 - i. Program must be implemented within the first 6 months of pilot
- f. Operators must provide an equity program for low-income users
 - i. This includes making available ways for qualifying users to gain access to service without credit card or smartphone
- g. Operator will work with local transit agencies to coordinate connections to service, interoperability of fares, and possible Clipper integration.
- h. Operators shall Coordinate with City Staff along with UC Berkeley Staff to identify operational goals/constraints for service and distribution on campus
- i. Operators must implement a robust community engagement and outreach process

3. Parking Safety

- a. Operators shall ensure their vehicles are not parked in a way that impedes the regular flow of travel in the PROW, or in any way that impedes ADA compliance
 - i. Scooters shall not be parked within 15’ of street corner pedestrian ramps
 - ii. “Legal” parking includes the landscaping or furniture zone of sidewalks
- b. Operators are responsible for informing their customers how to park correctly. Operator will provide parking plan on how they will incentivize users to park safely and correctly
- c. Operators are solely responsible for remediation of any improperly parked scooter
 - i. Operators have 2 hours to remediate parking issues, or else may face impounding of scooter by the City. Fines may be associated

City Staff will provide more detail level requirements and or incentives for scooter share companies and their customers to obey rules related to not riding on the sidewalk and parking scooters in a manner that does not impede sidewalk users.

4. Customer Service and Remediation:

- a. Operators must provide a customer service hotline, enabling members of the public to report misuse or damaged devices, or to receive general customer support
 - i. Customer Service for public shall be available 7am – 10pm, seven days a week, and be able to accommodate multi lingual translations
 - ii. Operator must provide a Public Safety Hotline to allow City personnel direct contact with Operators 24 hours a day for emergencies and device relocation, with a response time of 2 hours or less
 - iii. Operator will incorporate a “ticket number” system, similar to 311, to identify and track each customer service complaint
- b. Operators will appoint a local liaison to work directly with City Staff
- c. Every scooter shall have prominently displayed, clearly visible contact information, including a toll free phone number and email address for customers or members of the public to make relocation requests or to report other issues
 - i. A unique identification number shall be prominently displayed on every scooter

5. Data Reporting, Sharing and Privacy

- a. Operators shall clearly communicate to the City and to the public what data is being collected about its users, how it is being used, and for how long. Communication on data shall be easy to understand and access
- b. Operators shall make real-time and archival data available through an Application Programming Interface (API) to the City and designated third parties via General Bike Share Feed Specification (GBFS), and follow the data specification standard developed by the City of Los Angeles
 - i. <http://github.com/CityOfLosAngeles/mobility-data-specification>
 - ii. Operators shall provide a standardized dashboard interface for City Staff to view the data
 - iii. Operators shall provide an API endpoint for the public to view, query, and/or analyze anonymized data
 1. The City will work with scooter share operators to not only obtain reports that are feasible for all parties, but also report to the City in a manner that is deemed the highest level of protection for the user. As an example - instead of reporting to the City a detailed trip origin/destination address (micro), scooter companies could report block face/intersection (macro) level of anonymized detail.
- c. Reports on aggregated usage, maintenance, rebalancing, customer service, incidents and other key performance indicators shall be provided to the City on a quarterly basis

- d. Operators will issue a quarterly survey to their users to determine which modes of transportation scooter trips are replacing
 - i. A separate survey should be conducted in an attempt to reach more than just Berkeley residents who use scooter share. This is to collect a more diverse set of responses to inform Transportation staff and to allow non-scooter users an opportunity to weigh in on perceived benefits and impacts of the program.

- e. Monthly reports detailing rides per scooter shall be submitted for City to determine if Operators' program fleet should increase or decrease based on the 'dynamic cap'
 - i. Judgement on cap increase is solely at the City's discretion. If rides are greater than 4 rides per day, but complaints/incidents occur with great(er) frequency, the City may opt to retain the minimum amount of scooters in service until operational complaints are addressed/remediate