



City of Culver City

Mike Balkman
Council Chambers
9770 Culver Blvd.
Culver City, CA 90232
(310) 253-5851

Staff Report Details (With Text)

File #: 19-10 **Version:** 2 **Name:** Scooter-Share Interim Operating Agreement
Type: Minute Order **Status:** Action Item
File created: 7/2/2018 **In control:** City Council Meeting Agenda
On agenda: 7/9/2018 **Final action:**
Title: CC - (1) Discussion of the Draft Interim Operating Agreement (IOA) with Bird Rides, Inc, (Bird) on its Proposed Operation of a Stand-up Electric Scooter Sharing System within the City of Culver City; (2) Authorization to the City Manager to Finalize and Approve the IOA with Bird and Direction Related Thereto; (3) Authorization to the City Manager to Negotiate with Other Electric Scooter-Share Companies Interested in Operating in the City; and (4) Other Direction to the City Manager as Deemed Appropriate.

Sponsors:

Indexes:

Code sections:

Attachments: 1. ATTACHMENT NO 1_Draft Culver City Interim Operating Agreement with Bird.pdf

Date	Ver.	Action By	Action	Result
7/9/2018	2	City Council Meeting Agenda		

CC - (1) Discussion of the Draft Interim Operating Agreement (IOA) with Bird Rides, Inc, (Bird) on its Proposed Operation of a Stand-up Electric Scooter Sharing System within the City of Culver City; (2) Authorization to the City Manager to Finalize and Approve the IOA with Bird and Direction Related Thereto; (3) Authorization to the City Manager to Negotiate with Other Electric Scooter-Share Companies Interested in Operating in the City; and (4) Other Direction to the City Manager as Deemed Appropriate.

Meeting Date: July 9, 2018

Contact Person/Dept: Diana Chang/Transportation Department

Phone Number: (310) 253-6566

Fiscal Impact: Yes ☒ No ☐

General Fund: Yes ☒ No ☐

Public Hearing: ☐ **Action Item:** ☒ **Attachments:** ☒

Commission Action Required: Yes ☐ No ☒ **Date:**

Public Notification: (E-Mail) Meetings and Agendas - City Council (07/03/18)

Department Approval: Art Ida, Transportation Director (07/03/18) and Charles D. Herbertson, Public Works Director/City Engineer (07/03/18)

RECOMMENDATION

Staff recommends the City Council (1) discuss the Draft Interim Operating Agreement (IOA) with Bird Rides, Inc. (Bird) on its proposed operation of a stand-up electric scooter sharing system within the City; (2) authorize the City Manager to finalize and approve the IOA and provide direction related thereto; (3) authorize the City Manager to negotiate with other electric scooter-share companies interested in operating in the City; and (4) provide other direction to the City Manager as deemed appropriate.

BACKGROUND

Stand-up Electric Scooter-Share

Stand-up electric scooter-share is a new shared-mobility service that has been rapidly deployed by private companies (“Operators”) in the past few months in multiple cities in California and other parts of the nation. The Operators offer users access to a pool of self-service stand-up electric scooters (“Vehicles”), which are deployed for pick-up in locations in the public right-of-way or on public or private property. These Vehicles do not require docking stations. The Vehicles generally have an operating speed of up to 15 miles per hour. A user can access smart phone applications to locate and unlock a scooter for use. The scooter-share service offers an affordable, rapid and convenient way to travel and has the potential to alleviate traffic congestion, reduce parking demand and carbon emissions, and provide efficient first-and-last-mile transportation connections to transit service. In addition to Bird, to date, two other potential Operators, Lime and ofo, have approached the City to discuss potential deployments in the City.

Previous City Council Direction

On May 29, City Council directed staff to develop a draft IOA and to negotiate with Bird to allow for deployment of the stand-up electric scooter share service for a “test period” of six months while permit regulations are developed and put in place. City Council further directed that this IOA would be a template for use with other potential Operators interested in deploying the scooter share service in the City. Staff has prepared the draft IOA (Attachment No. 1) and worked with Bird to finalize the draft IOA. Feedback from Bird on the IOA is included in the staff report.

DISCUSSION

Draft Interim Operating Agreement on Stand-up Electric Scooter-Share

The draft IOA includes interim rules and requirements governing the operation of stand-up electric scooter sharing systems within the City in order to ensure that they are consistent with and maintain the safety and well-being of pedestrians, bicyclists, and other users of the public right-of-way. Major topics covered in the draft IOA are listed below:

1. Operating and Maintenance: Vehicle requirements, maximum number, management, maintenance, and operations.
2. Deployment and Parking: requirements related to the deployment and parking of Vehicles on the public right-of-way.

3. Safety, Education, and Outreach: requirements for Operators to educate Vehicle users on Vehicle safety and rules of operation.
4. Data and Reports: requirements for Operators to share data with the City, data/data sharing and reporting to inform and support safe and effective management of the system, compliance with the IOA requirements, and transportation planning analyses.
5. Insurance and Indemnification: Requirements for Operator provided insurance and indemnification.
6. Advertising: Requirements for Operator provided advertising programs.
7. Revenue Sharing: revenue sharing agreement between City and an Operator.

Key Discussion Issues

Below are the key issues regarding the draft IOA and the options for City Council's consideration and direction.

1. Fleet cap and management of fleet size:

Staff-proposed language: staff originally recommended a cap of 75 Vehicles for the initial deployment, while allowing the Operator to submit a written request to the City to increase the fleet size up to 150 Vehicles after the initial deployment based on certain average Vehicle utilization thresholds. This original proposal took into consideration that there are currently three interested Operators.

Bird's request: Bird has counter-proposed a "dynamic fleet management system" with no hard cap on the number of Vehicles allowing the Operator to increase/decrease the fleet size based on the average Vehicle utilization. Under this scenario, Operator will be allowed to increase fleet size on a regular basis when the fleet averages more than three rides per day, and City may require the Operator to decrease the fleet size when the fleet averages less than one ride per day. City may request data from Operator on a monthly basis to determine and demonstrate the utilization rate of Vehicles in the Operator fleet.

Other Jurisdictions:

San Francisco, Los Angeles, and Santa Barbara - San Francisco, Los Angeles, and Santa Barbara have either adopted or proposed caps on initial and maximum-allowable fleet size, and any increase in fleet size within the maximum-allowable fleet size will require city approval through an administrative action.

Austin - City of Austin adopted a cap on initial deployment and allows for increase in fleet size with city approval through an administrative action (Operator must show a minimum average Vehicle utilization of two rides/day), with no cap on maximum-allowable fleet size.

Santa Monica - City of Santa Monica has adopted the dynamic fleet management system and plans to propose four rides/Vehicle/day as the threshold to increase or decrease the fleet size. Any increase in fleet size will require city approval through an administrative action.

Memphis - City of Memphis has adopted the dynamic fleet management system which allows the

Operator to adjust the fleet size based on average Vehicle utilization. Operator may increase the fleet size if the average Vehicle utilization is more than three rides/day. City may require Operator to decrease its fleet size if the average Vehicle utilization is less than one ride/day.

Other considerations: According to ofo, another Operator, an average Vehicle utilization between 2-5 rides/day is considered by the company as “good”. If the average Vehicle utilization is more than five rides/day, they believe there are not enough Vehicles in the deployed fleet.

Staff believes that having hard caps in place for a single Operator below what the market will bear allows room for other operators to enter the market and permits healthy competition between multiple Operators. Not having caps in place could result in one Operator immediately dominating the market.

A dynamic fleet management system, such as the one proposed by Bird, gives maximum flexibility to the Operator to adjust its fleet size, but will require greater City monitoring. The threshold of one ride/Vehicle/day for City to require Operator to decrease its fleet size is low. In addition, any City required adjustments in fleet size will be after-the-fact and on a monthly basis. For this reason, staff recommends that City approval (through an administrative action) be required before Operator may increase its fleet size.

As this is a new mobility service, staff will evaluate what transpires during the test period and recommend adjustments to the requirements such as caps and fleet management.

Items for Council’s Consideration:

Staff requests the City Council direct which of the following fleet size approaches shall be incorporated into the IOA(s):

1. Direction on whether there should be a cap on the number of Vehicles initially deployed (staff’s recommendation is 75), or no cap (Bird’s request; Bird plans to start with 100 Vehicles).
2. Direction on whether the number of Vehicles deployed in the City, once the average Vehicle utilization exceeds certain thresholds, should adjust dynamically, or whether City Manager approval should be required for any increase.
3. Direction on what the threshold numbers should be for increasing or decreasing the number of Vehicles deployed. Bird has proposed the threshold to add Vehicles be an average of more than three rides per Vehicle per day, with a threshold to decrease Vehicles be an average of less than one ride per Vehicle per day. Staff suggests that the threshold to add Vehicles be an average of more than three rides per Vehicle per day, with a threshold to decrease Vehicle be an average of less than two rides per Vehicle per day. In addition, direction on whether the City Manager should be able to adjust the thresholds during the term of the Agreement.
4. Direction on whether there should be a maximum cap on the total number of Vehicles per Operator. Staff suggests a hard cap of 150 Vehicles. Bird proposes no maximum cap. In addition, direction on whether the City Manager should be able to increase the maximum cap.
5. As discussed in Item 2 below, if the City Council determines to authorize negotiation with other Operators, then staff is seeking direction on whether there should be an aggregate cap on the

number of Vehicles allowed to be deployed within the City and what that number should be. Staff suggests an aggregate cap of 450 as the number of Vehicles allowed to be deployed within the City during the term of the Agreement. This is based on having a maximum cap of 150 Vehicles per Operator for up to three Operators.

Staff's recommended combination of the above is: 1). Caps on initial deployment and the total number of Vehicles per Operator; 2). City Manager approval is required prior to fleet size adjustments; 3). The thresholds to add Vehicles be an average of more than three rides per Vehicle per day, with a threshold to decrease Vehicle be an average of less than two rides per Vehicle per day; 4). City Manager to be authorized to adjust the thresholds and the maximum cap on the total number of Vehicles per Operator during the term of the Agreement; and, 5). An aggregate cap of 450 as the number of Vehicles allowed to be deployed within the City during the term of the Agreement. . Staff will evaluate and recommend future adjustments based on what transpires during the test period.

Bird's recommended combination of the above is: 1) No cap on initial Vehicle deployment; 2) No maximum cap on the total number of Vehicles; 3) Operator be allowed to adjust fleet size dynamically (without City approval); and, 4) The threshold to add Vehicles be an average of more than three rides per Vehicle per day, with a threshold to decrease Vehicles be an average of less than one ride per Vehicle per day.

2. IOA with Other Operators:

As stated previously, other Operators, such as Lime and ofo, have shown interest in deploying their service in the City. Depending on the actual number of Operators and fleets deployed, there is a potential that the deployment and parking of the Vehicles may clutter the public right-of-way and popular locations in the City, such as downtown and Expo Culver City Station. Further, there is a potential that the fleets deployed may sit in the public right-of-way for long periods without serving a mobility function.

As there are currently three interested Operators and potentially more interested Operators in the future, consideration needs to be given to the impacts (such as clutter on the streets due to excessive initial deployment Vehicles) of executing IOA with multiple Operators. As discussed above, any cap on the number of Vehicles allowed under the IOA will be multiplied by the number of Operators that the City execute the IOA with and the City Council may want to consider an aggregate cap on the total number of Vehicles collectively deployed by multiple Operators within the City. For example, if each Operator is capped at 75 Vehicles, and three Operators are allowed, then the total number of Vehicles deployed in the City would be capped at 225.

Other Jurisdictions:

Santa Monica - limited participation in their pilot program to two scooter operators.

San Francisco - adopted permit guidelines does not limit the number of operators allowed but will only allow up to five permits.

Los Angeles, Santa Barbara, and Austin - these jurisdictions' proposed/adopted permit guidelines do not specify the number of operators allowed.

Items for Council Consideration:

1. City Council authorization to negotiate a similar IOA with other Operators.
2. Direction from the City Council on (A) whether the City will execute an IOA with all interested Operators; or (B) limit the number of Operators.
3. Direction from the City Council on whether an aggregate cap on the total number of Vehicles deployed within the City be established.

3. Locations Prohibited from Vehicle Deployment and Parking

Section 6.e. of the IOA details locations (such as bus stops, parklets, disabled parking zone, etc.) adjacent to or within which Vehicles should not be deployed or parked. The purpose of this subsection is to ensure that access is not impeded.

Bird requested that this section be revised so as to allow for Vehicle deployment and parking as long as access is not impeded.

Items for Council Consideration:

1. Direction from the City Council on whether to (A) continue to prohibit parking within or adjacent to certain locations, while working with Operator to refine this subsection during the test period in order to evaluate and address potential issues (staff recommendation); or (B) allow parking within or adjacent to certain locations as long as access is not impeded (Bird's request).

Metro Bike Share

Staff will bring the Metro Bike Share item to the City Council for direction at a future City Council meeting.

FISCAL ANALYSIS

City anticipates to incur costs on the administration, monitoring, and enforcement of the IOA(s) on the stand-up electric scooter sharing service. Staff will need to closely observe and monitor the distribution of the fleet by Operators to ensure that City streets do not get overwhelmed by Vehicles parking and to address potential issues/complaints. Staff will also need to track and analyze the data in order to adjust the rules/requirements based on what transpires during the test period.

The costs associated with the IOA may be offset or recovered through the revenue sharing of \$1/day/scooter.

ATTACHMENTS

1. Draft Interim Operating Agreement

RECOMMENDED MOTIONS

That the City Council:

1. Discuss the draft Interim Operating Agreement (IOA) with Bird on its operation of a stand-up electric scooter sharing system within the City;
2. Authorize the City Manager to finalize and approve the IOA and provide direction related thereto;
3. Authorize the City Manager to negotiate with other Electric Scooter-Share Companies interested in operating in the City;
4. Authorize the City Attorney to review/prepare the necessary documents;
5. Authorize the City Manager to execute such documents on behalf of the City; and
6. Provide other direction to the City Manager as deemed appropriate.