



CITY OF EMERYVILLE

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BAY AREA TOLL AUTHORITY

May 5, 2015

Ms. Alix Bockelman
Deputy Executive Director, Policy
Metropolitan Transportation Commission
101 Eighth Street
Oakland, CA 94607

SUBJECT: East Bay MTC Bay Area Bike Share Negotiations

Dear Ms. Bockelman:

In response to the MTC Administration Committee Memo of April 1, 2015, the East Bay cities of Berkeley, Oakland, and Emeryville met to discuss our concerns with the current negotiations with the private contractor, Motivate. This letter summarizes Emeryville's concerns with the current negotiations. While the East Bay Cities have formed a consensus on several issues, and have similar questions on several others, each city will provide their own concerns in separate memos. We look forward to discussing these issues further, either individually or as a group.

1. Advertising

We appreciate the contract language that states all advertising shall be subject to local restrictions. We believe Motivate should be aware that while we desire bike share in Emeryville, advertising on kiosks is not permitted under our sign regulations.

2. Buy-In Costs Specific to Infill Stations and Expansion Areas in Participating Jurisdictions

The City of Emeryville is very interested in increasing the density of station locations in Emeryville for functional saturation. The proposed costs for the operations and maintenance for equipment providing additional density in already-served cities is higher than the proposed cost for cities joining the regional system. We ask that those costs be more equitable across jurisdictions, so that the reductions in cost for stations that generate certain numbers of rides per bike per day be offered to the already-served cities as well as the newly-added jurisdictions.

3. Clipper Card Interoperability

Motivate has indicated that their bike share system will be compatible with Clipper cards. This is highly desirable, and we ask that the MOU reflect a performance standard to meet this goal.

4. Insurance

The memo states that Motivate will indemnify local jurisdictions. This must be supplemented by a requirement that Motivate provide and maintain general and automobile liability insurance policies naming the local jurisdictions as additional insured, with policy limits of no less than \$1,000,000 per occurrence. Motivate must also provide evidence of workers compensation coverage and provide a waiver of subrogation.

5. Routine Maintenance and Temporary Relocations

The City of Emeryville typically requires parties with encroachments in the right of way to temporarily relocate any such encroachment for routine maintenance such as repaving, utility relocation etc. The contract should include language to allow local jurisdictions to require these temporary relocations at Motivate's sole cost.

6. No Net Cost

Motivate should operate in the respective cities at no net cost to the host cities in terms of staff time spent on planning and implementing the system. This position is in accordance with the Motivate/MTC draft terms of agreement language ("Cost Not to Exceed \$0.") In that spirit, the East Bay cities agree that Motivate should provide funding for all demonstrable net costs, which include permit fees; city staff time spent launching and managing bike share issues for the duration of the project, and may include lost parking revenue in some cities. In Emeryville, staff support for Bike Share is exclusively funded by the City General Fund, and the future lack of Bike Share as a TFCA-eligible activity raises additional concerns about ensuring that Emeryville doesn't incur costs for permitting or site selection.

7. Revenue Sharing

The current language states that MTC and Motivate would be the parties to the revenue sharing agreement. Is it MTC's intention that revenue sharing would be distributed to each city via the MTC-City agreements, as a potential funding source to defray local agency staff costs, or for other Bike Share-related expenses?

8. Exclusivity

In the memo, MTC is proposing Motivate will be the exclusive supplier and operator of bike share in the Bay Area. What is the legal definition of "exclusive" under these

terms? We are concerned that other mobility sharing programs could be blocked from adding bicycle elements to their operations by this agreement.

For example, what if a university or corporate campus wanted to establish an on-campus bike sharing program for their own students and faculty? Emeryville is concerned with the possible impacts of the exclusivity clause on private bike share systems such as the City of Emeryville's system for City staff, or Pixar's system for their staff's use both on- and off-campus.

9. Equity

The City of Emeryville will be serving and served by stations in West Berkeley and West Oakland. Siting of stations in these adjacent Communities of Concern will create a synergy and may optimize Emeryville site locations.

10. Air Quality District TFCA Funding

The Air Quality District has indicated that due to the air quality underperformance of the SFMTA bike share pilot, bike share may no longer be an eligible TFCA expenditure category. If this is the case, only currently-allocated TFCA bike share funds will be allowed to be spent and no new allocations will be allowed. While this issue is not directly related to a specific proposed provision of the MTC-Motivate contract, it may affect the ability of cities to staff the Bike Share expansion to the East Bay, since bike share staff in Berkeley and Oakland are currently paid using TFCA funds. If TFCA funds are no longer available for use to pay local agency staff costs, this places additional emphasis on #1 and #2 above in other cities as it does currently in Emeryville, particularly the ability of local agencies to recapture staff costs through profit-sharing from MTC/Motivate and/or through permit fees; recapturing revenue loss from paid parking spaces; and/or Motivate directly funding ongoing local staff costs.

The City of Emeryville is looking forward to being a part of this proposed addition to transit in the region. Thank you very much for your attention to these issues.

Sincerely,



Sabrina Landreth
City Manager

CC: Maurice Kaufman, Public Works Director
Charles S. Bryant, Community Development Director
Michael Biddle, City Attorney
Nancy Humphrey, Environmental Programs Analyst
Amber Evans, Community Development Coordinator