



ARLINGTON COUNTY, VIRGINIA

County Board Agenda Item Meeting of September 22, 2018

DATE: September 19, 2018

SUBJECT: Shared Mobility Devices Demonstration Project

C. M. RECOMMENDATION:

1. Authorize the County Manager or his designee to implement and evaluate the Shared Mobility Devices Demonstration (“SMD”) Project described herein, subject to approval of the necessary Permit Application and Memorandum of Agreement (“MOA”) with each SMD provider in a form approved by the County Attorney.
2. Adopt a Shared Mobility Device permit fee to cover the expenses associated with the Shared Mobility Devices Demonstration Project, to become effective October 1, 2018, using the attached resolution (Attachment III).
3. Appropriate \$48,000 of permit fee revenue from participating companies (101.350908) to the Department of Environmental Services (101.41150) for the implementation and management of the shared mobility devices demonstration project.

ISSUES: County Board approval is required to create and implement a Shared Mobility Device Permit Fee along with the implementation of the Shared Mobility Devices Demonstration Project.

SUMMARY: In order to continue Arlington’s responsible stewardship of the public right-of-way, as well as its record of thoughtful response and adaptation to the transportation needs of community members, staff would like to hold a nine-month demonstration program starting October 1, 2018 to evaluate shared mobility devices (SMDs) such as “dockless” bikeshare bikes (both pedal and electric pedal-assist) and electric stand-up scooters. Arlington would use this demonstration period to learn if and how the technologies and services help to advance the County’s transportation goals, making the community better, safer, and more sustainable.

BACKGROUND: Arlington was an urban mobility leader in its role helping to found Capital Bikeshare in 2010, which was one of the first regional bikeshare systems in North America and a

County Manager:

MJS / Muc

County Attorney:

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25.

Staff: Melissa McMahan DES, Jim Larsen, DES

system which now generates over 3.5 million trips per year. Over the past year, a new model of bikeshare and electric foot-scooters hit the streets in many cities and counties throughout North America. This service model is privately funded and does not require docking stations. Starting with Seattle, WA in July 2017, followed by the District of Columbia in September 2017, there are now companies operating these services in at least 25 North American metropolitan areas, and counting.

Five companies operate SMDs in the District and Montgomery County, MD. The District and Montgomery County pilot programs, which started last fall, include minimal operating agreements and no permit fees. The jurisdictions had planned to end their pilots on April 30, 2018, but opted to extend them until August 31, 2018 (The District has again extended their pilot until December 31, 2018). Most, but not all, of the devices in these pilot programs have stayed within the participating jurisdictions' boundaries, but as we have previously seen with car sharing, Arlington residents and neighbors across the region do not constrain their travel according to jurisdictional boundaries. Most recently, one company, Bird, brought a fleet of 50 electric scooters to Arlington because there was demand for the service here.

There are several factors that contribute to why Arlington is seeing the presence of these technologies today. The population living and working in Arlington is among the most educated, tech-savvy, and affluent in the United States. This creates an attractive user market for these devices. Arlington is also trying to shift its economic base away from reliance on federal government contractors to a more diverse array of private sector businesses, including technology companies. Employers are encouraged to view Arlington as a technology leader, which means businesses and their employees are looking to see Arlington embrace new technologies in a way that supports the community.

There is also a potential for Arlington to capture environmental and traffic benefits from community use of SMDs. While walking, biking, and transit remain the most environmentally sustainable options for Arlington travelers, SMDs have the potential to substitute for short car trips, to cover the first or last mile from Metrorail to home or work, and could help encourage daily commuters to leave their cars at home.

Finally, the County recently adopted new guidance for reducing the amount of parking required of new multifamily housing. Staff is already receiving requests from developers to reduce the parking they are providing, either existing built parking to be converted to other uses, or changes to designs of proposed future projects. Especially in Arlington's Metrorail corridors, the emphasis continues to shift away from providing car parking to providing other amenities and services to support households with fewer cars.

DISCUSSION: With receipt of authorization from the County Board, the proposed demonstration program would begin around October 1, 2018 (staff may begin receiving and processing applications at any point after Board approval and County Manager signature). The proposed program would require participating companies to sign a MOA and complete and obtain approval of a Permit Application for the fleet of each mode (bicycles, e-bicycles, and electric scooters are considered different modes), including payment of fees. The documents would allow the SMD companies to officially operate in the County, and would stipulate the

parameters within which they must operate. The draft Permit Application and MOA are attached to this Board Report. Key features of the Permit and MOA would include:

1. Up-front payment of a one-time demonstration permit fee of \$8,000 per mode per company, regardless of fleet size.
2. An initial fleet cap of 200 devices per mode per company in Arlington at any one time, with permission to request a performance-based increase of 50 devices per month up to 350 per mode per company upon demonstration of unmet demand (previous month's data must meet a minimum average of six (6) trips being taken per device per day) and full compliance with regulations as described in the MOA.
3. Required safety features for all devices consistent with state regulations and standard practice for the Capital Bikeshare system.
4. Electric scooters to be held to a speed limit of 10 mph, and electric-assist bikes to a speed limit of 15 mph.
5. Minimum age of sixteen (16) for riders of electric scooters and electric-assist bikes.
6. Minimum required contact information and operations management from each company.
7. Requirement that companies must convey Arlington device parking and use regulations to all users and require users to abide by those regulations.
8. Commitment to respond to customer and community complaints/issues in a timely fashion.
9. Provision of at minimum monthly data to the County for staff analysis.

The proposed demonstration would run for nine months, from roughly October 1, 2018 until June 30, 2019. This proposal also requests the ability for the County Manager to extend the demonstration and the associated permits and MOAs administratively as necessary in order to accommodate staff time to finish evaluation and subsequent recommendations for the Board.

If establishment of an official program were to be recommended, it would be accompanied by recommendations for any necessary and appropriate code changes, fee structure, enforcement processes, data requirements, appropriations, and any other necessary features to appropriately regulate the program. Staff will likely require between one and three months from the official end of the demonstration before follow-on recommendations would be ready to present to the Board.

Fleet Size

The demonstration program would permit initial deployment up to 200 devices per mode per company. If an operator is able to demonstrate an average of at least six (6) trips per device per day over a full month, and compliance with the program's MOA requirements, that operator would have the opportunity to expand their fleet by as many as 50 devices per mode each month, up to a maximum fleet size of 350 devices per mode per company. If an operator wished to expand a fleet's size, it may request the expansion with appropriate documentation. Conversely, if an operator can't maintain at least six (6) trips per device per day, then the County may require that the operator decrease the fleet size in increments of 50 vehicles, until they again meet this performance requirement or reach their initial fleet size.

Enforcement

The program will be monitored and enforced by Division of Transportation staff and contractors (collecting and reviewing permit applications, collecting and recording fees, issuing permit approvals, monitoring compliance with the MOA and Permit requirements, analyzing data received, responding to community complaints) and the Police Department (in the field, monitoring compliance with federal, State and local laws governing especially the ROW, traffic, and parking). The Police response would not be expected to be “proactive”, but would be based on observation during routine patrolling activities, and in response to recurring issues that are identified by the Police Department. Police time on trails and in parks is likely to continue to focus on injuries and criminal activities, but community feedback to Transportation staff and Police throughout the demonstration would allow the County to determine if speeding or parking complaints increase on trails and in parks in such a way that additional or different regulation may be warranted in the future. This demonstration would not require the use of helmets or allow electric scooters to be ridden on sidewalks which would be in contravention of existing States codes, or authorize electric bicycle or electric scooter use on County bike trails in conflict with the County code.

Helmets – There is no current enabling legislation to require helmets for electric scooters. The enabling legislation for helmets only applies to riders of bicycles and electric bicycles who are 14 years of age or younger. The County Code does require helmets for bicycle riders 14 and under, but does not mention electric bikes. However, because the minimum age for electric bikes in the Demonstration Project is 16, there is no need to amend the County Code to cover helmets for electric bicycle riders.

Use on Sidewalks – Current state law allows bicycles and electric bicycles to be ridden on sidewalks, but prohibits such riding by electric scooters. While there is enabling authority for localities to ban electric scooter riding on sidewalks, it does not grant localities authority to affirmatively allow such riding. Thus, to enact an ordinance authorizing electric scooter riding on sidewalks would require a legislative change.

Use on Bicycle Paths – In conformance with County Code, electric bicycles and electric scooters are not be permitted on existing and approved County bike trails designated on the Arlington Bicycle Transportation Plan.

The demonstration is sensitive to the fact that electric-assist technology can actually be a benefit for access to residents who might otherwise not be able to use an active mode of transportation. In early feedback from community members, speed, especially speeding or any riding on sidewalks, is a key concern which will have to be monitored. It has also been observed by staff that enforcement of speed issues generated by “regular” bicycles, usually on multiuse trails, is already a challenge, and that it may not be device technology that is the issue, but rather rider behavior more generally. Efforts of staff and vendors during the demonstration will encourage good shared sidewalk and trail etiquette, following the County Code where the code already has stipulations, and following State code where it speaks to an issue and the County Code does not. Transportation staff will maintain open and frequent channels of communication with Parks and

Recreation staff and Police to ensure thorough documentation of issues reportedly arising from sharing facilities, and to help ensure that vendors take responsibility for mitigating poor behaviors of customers.

Communications & Outreach

This proposal offers a robust County-side communication and outreach plan to include:

- County webpage for the demonstration (<https://transportation.arlingtonva.us/scooters-and-dockless-bikeshare/>, already live with interim guidance and FAQs)
- A web comment form on the webpage for the demonstration (to collect structured and unstructured comments)
- A special email address to receive feedback (mobility@arlingtonva.us, also already live and receiving feedback)
- Designated phone number
- A basic notification distribution at the start of and midway through the demonstration:
 - Civic Association list
 - BIDs
 - Schools/PTAs (APSTalk)
 - Federal installations (Washington Headquarters Service/Pentagon, ANC, JBM-HH, Arlington Hall)
- A status update presentation to advisory groups such as but not limited to:
 - Transportation Commission
 - Bicycle Advisory Committee
 - Pedestrian Advisory Committee
 - Parks and Recreation Commission
 - Joint Advisory Committee on Transportation Choices (ACTC)
 - Disability Advisory Commission
 - Commission on Aging
 - Economic Development Commission
- Updates to neighboring jurisdictions, the National Park Service, and Nova Parks
- Routine updates to the Resident Ombudsman
- Routine updates to the County Manager
- Talking Points for Board Members
- Possible web-based community survey on experience with services (if staff time supports)
- Overall, use of standard County communication channels for notification of demonstration roll out, progress, community input opportunities, and evaluation results

In tandem with the County's commitment to a strong communication process, the demonstration program would require vendors to commit to specific communication actions and standards to ensure their members are receiving necessary information about safety and good etiquette for sharing our streets. These expectations would include:

- Clear instructions on websites and mobile apps about codes applicable to using these services in Arlington County

- Clear instructions on websites and mobile apps emphasizing safely sharing the streets with other users
- Clear instructions on the website and mobile app about acceptable parking locations and habits
- Safety information messages displayed on all devices
- Mechanisms for communicating with and as necessary warning individual customers if they are not following this guidance

Data Requirements

Staff proposes requiring similar data from the SMD companies as we receive from the County's operator of Capital Bikeshare and similar to what the District of Columbia already requires of these operators. These data are likely to include:

- Total active customers who reside in the County
- Trips starting and trips ending, separately, in the County during the month, and trips starting and trips ending in the County since launch (raw trip data)
- Average trip duration in minutes
- Average and total distance of trips
- Daily SMDs in service in the County
- A map of trip route data for all trips starting, ending, or passing through Arlington (especially to understand the equity implications of coverage of these services), by month
- Crashes – giving time, date, precise location, and number of parties impacted
- Injuries – giving time, date, precise location, and cause (if known)
- Thefts and vandalization – numbers of each by month
- Number and precise location of SMD that had to be relocated after seven (7) consecutive days in one location
- Complaints received – giving the reason with date and location, if available/appropriate
- Incorrectly parked SMD reports – giving time, date, and precise location
- Speeding reports
- Other complaints
- Other feedback received – by date, time, and precise location, if applicable
- Arlington customer survey results, once per company during the demonstration period, to solicit data on topics such as mode replacement (i.e. what modes are being substituted with bicycle, electric bicycle, or electric scooter trips) and overall user feedback. Surveys must be drafted in consultation with the County before release.

Evaluation

With these data from vendors, field observations, data from other jurisdictions (such as DC and Montgomery County), data from departmental sources (such as Police and Parks), and survey responses, staff would evaluate demonstration performance in areas such as (list to be refined somewhat as nature of data and impacts better understood):

- Extent of parking impacts, if any, that are detrimental to pedestrian, bike, or vehicle

safety and circulation

- Number and types of breach of MOA or permit, by vendor, and resolution
- Sufficiency (frequency, clarity, etc.) of communications provided by SMD companies to their customers and the wider community about:
 - Complaint response
 - Parking guidance
 - User etiquette
 - Local regulations
- Acceptability of fleet size fluctuations with interaction with DC, other jurisdiction fleets (Is Arlington getting too many devices? Too few? Concentrations by location or time?)
- Sufficiency of distribution of services across community, and equity of impacts (How much service is generally being provided to lower income neighborhoods? Are some vendors/services better than others at reaching lower income neighborhoods?)
- How/if service use patterns reveal optimal locations for designating/striping/signing parking areas for SMDs or even personally-owned bicycles
- Acceptability of rates of broken SMDs (depicting level of service that can be expected of these private providers)
- Appropriateness of rates of crashes and injuries in these services (to be compared to Countywide and regional trends for bicyclists and pedestrians generally)
- If possible, trip-making characteristics of SMD ridership, including mode replacement – (What mode would SMD riders be using if the SMDs were not available? Are Capital Bikeshare trips being replaced?)
- High-use areas and routes within the County
- Use to access schools and community facilities, other notable destinations that come out of the data
- Limitations of local or state codes that regulate these services and the places where people would use these services (e.g. roads, sidewalks, trails)
- Evolution of general community response over the course of the demonstration

Report Back and Recommendations

At the end of the nine-month term of the demonstration, staff will review the accumulated data and community feedback and prepare recommendations for the Board's consideration. During this time, staff would be enabled by the Board to authorize permit extensions for each vendor upon request, unless specific performance issues by a vendor cause staff to advise against interim extension (such as failure to meet terms of the MOA and Permit requirements). Subsequent to the evaluation, staff would report back to the County Manager and Board with recommendations for the future of these services in the County, including potential code changes if warranted.

PUBLIC ENGAGEMENT: Given this context and almost a year of U.S. exposure and experience with SMDs, Arlington staff has studied various sources to understand the potential positive and negative impacts and how other communities are handling the emergence of these options. Staff has reviewed information from the District of Columbia and Montgomery County pilots, from bicycle and TDM industry publications and presentations, from the National Association of City Transportation Officials (NACTO) published guidance, from jurisdictions' program evaluation reports, and from early Arlington community feedback. Transportation staff

has engaged staff in the Department of Parks and Recreation, Police, as well as regional jurisdictions for their expertise. Staff has reached out to the Transportation Commission, the Bicycle Advisory Committee (BAC), and the Pedestrian Advisory Committee (PAC) for early input. Staff were able to present initial concepts to the BAC meeting on August 6 and the PAC meeting on August 8. The Transportation Commission received a presentation of the proposed demonstration on September 5, 2018, and provided their endorsement of the demonstration. While the Transportation Commission recommended that the demonstration refrain from capping numbers of devices, this proposal retains what staff considers a reasonable cap, reflecting other community input. Staff met with vendors on August 13 to identify operational needs and challenges associated with their experience so far in the region, and to get better information on how well the companies could accommodate key safety, parking, data, and communications needs of an Arlington demonstration. Staff has also received and considered comments, concerns, and questions from perhaps a dozen individual community members who have written in via email or called since the announcement that the Board would consider authorizing a demonstration program in September. All of these sources have shaped the demonstration project proposal.

FISCAL IMPACT: Staff anticipates that this demonstration program will require approximately 20-25 hours a week of net new staff time for the duration of the demonstration, with slightly more hours at the beginning of the demonstration, a dip during the middle, and an increase again during the evaluation period. This time is proposed to be accommodated within scope under current staffing contract(s) held by the Commuter Services Bureau or Transportation Engineering and Operations. The overall cost of this additional contracted staff time and associated administrative direct expenses for the nine-month demonstration period is anticipated to be about \$48,000. This amount does not include the evaluation period that may include an additional one to three months of work to occur in Fiscal Year 2020. Notably, this cost does not attempt to account for incremental additional workload which will be borne by County FTEs and some current contracted staff to oversee the demonstration. Anecdotally, both the District and Montgomery County pilots have reported expending more staff time than anticipated to manage their pilot programs.

In light of responsibilities anticipated to set up, manage, and evaluate this demonstration program, staff propose including a permit fee in the design. To keep administration of this fee as simple as possible, the proposal is for a one-time up-front flat permit fee of \$8,000 per mode per company, due upon receipt of the Permit Application, which would also cover extension months if applicable. With potentially five companies offering service in Arlington (based on the number of companies currently operating in DC), and one company potentially offering more than one mode fleet, the revenue from this fee is anticipated to be about \$48,000, roughly in line with net new administrative costs described above.

Any “towing” or device recovery fees for improperly parked devices which may be removed from the right-of-way are a separate responsibility of each company, if applicable. If such a towing occurs, those fees would be administered by the towing agency on the fee schedule applicable to that agency, when vendors recover their devices.

One of the fiscal impacts difficult to measure would be the potential for these services to shift rides from other modes. For instance, it is Arlington's preference and hope that trips taken by electric scooters could replace trips that would otherwise be taken by car. However, it is also possible that trips taken by an electric scooter may replace some trips taken on foot or by public transit. If SMD trips displace transit trips, there is a possible loss of transit farebox revenue. However, if these devices encourage County residents or commuters to leave their cars at home by easing the first and last mile connection to our transit network, the overall change in commuter behavior may generate new walk, bike, and transit trips with concomitant new transit farebox revenue.

Another fiscal impact difficult to measure but worth noting is the potential for these services, if successfully and safely integrated into our suite of transportation options, to help the County maintain a competitive edge for both businesses and residents. Attracting new businesses and residents has the potential to maintain or enhance the County's overall tax base, which is important for fiscal stability.

Shared Mobility Device – Demonstration Program Permit Application

This is the permit application to allow companies to operate a fleet of Shared Mobility Devices (“SMD”, also known as “dockless” or “floating” bikeshare and scootershare) in Arlington County, VA. Applicants must review the requirements carefully, and provide the requested completed permit application for each mode-specific fleet proposed (contact information, fleet size, fee payment, and signature(s), etc.). The permit application must be submitted in hard copy to the address below for processing.

Make check payable to:

Arlington County Treasurer

Mail application with check to:

**Arlington County Dept. of Environmental Services – Division of Transportation
Commuter Services Bureau
Attn: Bikeshare Manager
2100 Clarendon Blvd., Suite 900
Arlington, VA 22201**

Questions should be directed to mobility@arlingtonva.us

The County will notify the Applicant of the status of their application within ten (10) business days of receipt. If the application is deemed incomplete, follow-up information may be requested. Upon receipt of written approval from the County, companies may initiate the permitted SMD services in the County, subject to all requirements in the company’s signed Memorandum of Agreement (“MOA”) with the County, the requirements listed in this permit, and compliance with all applicable Federal, State, and local laws.

Applicant Information:

Company Name:	
Local General Manager Contact Name:	
Local General Manager Contact Phone:	
Local General Manager Email Address:	
General Customer Service Contact Phone:	
Relevant Mailing Address:	
Company Website:	
Proposed Fleet Mode Type: <i>(e.g. bike, e-bike, or electric scooter)*</i>	<i>*Only one (1) fleet mode type per permit application.</i>
Proposed Fleet Size: <i>(Up to a maximum of 200 devices)</i>	

MOA for Regulation of Shared Mobility Devices has been signed and attached: _____ (initial)

Evidence of required insurance is attached: _____ (initial)

Evidence of Virginia Business License and Certificate of Good Standing is attached: _____ (initial)

By signing this permit, the applicant has read and understood all of the permit requirements, certifies that s/he has the authority to sign for and bind their company, and by virtue of her/his signature is bound by the provisions of this permit. Should the applicant not follow the provisions herein, or is in violation of the North American Bikeshare Association (NABSA) Code of Conduct, the permit may be suspended or revoked and their SMDs be required to be removed from Arlington County. Fees are non-refundable.

Applicant Signature: _____

Applicant Name Printed: _____

Date: _____

Permit Requirements

MOA

- 1) The Operator agrees to all terms in the MOA and has attached a signed copy of the MOA to this permit application.
- 2) The permit is non-transferable. The vendor cannot transfer its rights under this permit to any other entity or individual, including subsidiaries. A prospective transferee must apply for its own permit.

Business License

- 1) The Operator shall provide a copy of their Virginia Business License and Virginia Certificate of Good Standing.

Fees

- 1) Each Operator shall pay a single up-front flat fee of \$8,000 upon submittal of their Permit Application for each mode-specific fleet.
- 2) Fees may be used by the County for any costs associated with administering the demonstration program, such as but not limited to, monitoring of compliance with Permit and MOA requirements, manipulation and evaluation of data submitted, communications with Operator and the public, public property repair or maintenance related to the SMD services, and installation of infrastructure, signs or markings to address operations of SMDs and compatibility with other mode users.

MEMORANDUM OF AGREEMENT

Between

Name of Company

and

Arlington County, Virginia

This Memorandum of Understanding (“MOA”) is entered into by and between the County Board of Arlington County, Virginia (“Arlington County”) and Name of Company (“Name of Company”). Throughout this MOA Name of Company and Arlington County may each be referred to as a “party,” and may be referred to jointly as the “parties.” This MOA governs the terms, responsibilities and performance measures between Name of Company and Arlington County regarding Name of Company’s provision of shared mobility devices (SMDs) on property within Arlington County (the “Demonstration Project”).

RECITALS

WHEREAS, the purpose of this MOA is to permit Name of Company to operate under the Demonstration Project and ensure that Name of Company SMDs are used and parked appropriately without impeding pedestrian access, and/or obstructing access to fire hydrants and valves, street furniture, bus stops, driveways, crosswalks, intersections, traffic operations, outside dining or retail, building access, or any other public use of right-of-way in Arlington County; and

WHEREAS, the Arlington County Board, along with the Virginia Department of Transportation owns, controls, and maintains the public space on which Name of Company shall park its SMDs; and

WHEREAS, Virginia Code §15.2-2001 enables Arlington County to regulate its right-of-way; and

WHEREAS, Arlington County’s Division of Transportation (“DOT”) and Police Department shall be the primary County entities that shall enforce the conditions set forth in this MOA; and

WHEREAS, Name of Company’s SMDs are designed such that users can park them at any public bike parking location, making the Name of Company device available to other Name of Company users; and

WHEREAS, Name of Company desires to operate under the Demonstration Project in Arlington County; and

WHEREAS, Arlington County desires to facilitate the Demonstration Project to assess the viability of SMD operations within the County and to understand the parameters that will allow SMDs to operate effectively and to avoid any public nuisance in Arlington County.

NOW, THEREFORE, based upon the above recitals, Name of Company hereby agrees to the terms, responsibilities, and performance measures of this MOA as follows:

Article I. Responsibilities of Arlington County

Arlington County, by and through DOT, shall, with good faith and in an effort to achieve Arlington County’s policy goals, cooperate and communicate with Name of Company and the public to work towards a successful, safe, and sustainable regulatory environment for SMDs.

- A. Arlington County shall notify enforcement agencies not to ticket or impound Company Name’s SMDs if they are parked according to performance measures of this MOA, the stipulations of the required Permit, and all applicable laws.

- B. Arlington County may, as needed, establish and update parking requirements applicable to SMDs including identification through signage, striping or other means of areas that should serve as preferred parking locations for these devices.
- C. Arlington County shall provide to Name of Company an Arlington County point of contact (POC) for the Demonstration Project.

Article II. Responsibilities of Name of Company

- A. Performance Requirements: Name of Company shall, in good faith, through its Arlington County POC, cooperate and communicate with Arlington County and the public to work towards a successful, safe, and sustainable Demonstration Project, conforming to all State and local laws, permit requirements, and the performance responsibilities outlined below:
 - 1. Authorization to Operate
 - a. Prior to operating in the right-of-way of Arlington County, Name of Company shall execute a copy of this MOA; complete and submit to Arlington County, the required Permit Application; and pay the required fee to cover the anticipated costs to Arlington County of administering the Demonstration Project. All obligations of Arlington County under this MOA shall be subject to and contingent upon the appropriation of funds.
 - 2. Service Management and Arlington County Communication
 - a. Upon executing this MOA, and as part of its permit application, Name of Company shall provide to Arlington County a point of contact (POC). The POC shall have responsibility for, and control over, the services provided in this MOA for the duration of the Demonstration Project. If Name of Company changes their POC, they must immediately notify Arlington County of such change.
 - b. The Name of Company representatives shall meet with Arlington County's POC within three days of any request by Arlington County to review service status and issues. In addition to ad-hoc meetings, Name of Company shall meet with the Arlington County POC at least one week before launch, and in person or by phone monthly thereafter throughout the duration of the Demonstration Project.
 - c. Upon the request of the Arlington County POC due to emergency, severe weather, construction, parade, public gathering, or other situation affecting the normal operation of the right-of-way including sidewalks and trails, Name of Company shall collect and secure all of, or a portion of, Name of Company's owned or controlled SMDs to a location outside of the public right-of-way or to a location that does not otherwise impede Arlington County's access and response to the situation for the duration of the situation.
 - d. In the case of a critical issue or emergency situation designated by the Arlington County POC, Name of Company shall be available within the Response Time to respond to emergency needs and to coordinate with Arlington County. Arlington County has the right to exercise "self-help" if they determine that an emergency poses an imminent risk to public health and safety or property damage. For the purposes of this MOA, the "Response Time" shall mean, based on the time of report:
 - 1) When reported between 6 AM and 8 AM – 2 hours from the time of report
 - 2) When reported between 8 AM and 9 PM – 1 hour from the time of report
 - 3) When reported between 9 PM and 11 PM – 2 hours from the time of report
 - 4) When reported between 11 PM and 6 AM – Prior to 8 AM

- e. The Name of Company POC shall respond within five business days regarding issues or questions raised by Arlington County in meetings, through telephone inquiries, or other correspondence.
 - f. Name of Company shall be solely responsible for providing information to its customers on proper Name of Company parking prior to the launch of the Demonstration Project, and throughout its duration.
3. Safety
- a. Bicycles shall meet the federal standards under the Code of Federal Regulations (CFR) [Title 16, Chapter II, Subchapter C, Part 1512 – Requirements for Bicycles](#).¹
 - b. Bicycles and Scooters shall comply with Virginia Code [§46.2-1015](#) requiring both headlight and taillight.²
 - c. Any electric Bicycles used by Name of Company with a permit issued under this pilot program shall meet the definition of *electric power-assisted bicycle* in Virginia Code [§46.2-100 et. seq.](#), and shall be subject to the same requirements as ordinary Bicycles. Electric bicycles shall have fully operable pedals that allow propulsion by human power, and an electric motor with an input of no more than 1,000 watts, and a top motor-powered speed not to exceed 15 miles per hour when operated by a rider weighing 170 pounds. Additionally, Arlington County reserves the right to terminate any permit issued under this pilot program if the battery or motor on an electric Bicycle is determined by Arlington County to be unsafe for public-use.
 - d. Any electric Scooter used by Name of Company with a permit issued under this pilot program shall meet the definition of *motorized foot-scooter* in Virginia Code [§46.2-100](#). Such scooters shall be powered by an electric motor having an input of no more than 1,000 watts, and a top motor-powered speed of 10 miles per hour when operated by a rider weighing 170 pounds.
 - e. Arlington County may modify the top speed of any electric Bicycles and electric Scooters at its discretion over the course of the Demonstration Project.
 - f. All SMDs shall have front and rear standing lights that flash or illuminate for at least 90 seconds after the SMD comes to a complete stop.
 - g. All SMD shall have brakes and a bell.
 - h. Name of Company shall provide visible safety language on Bicycles and Scooters.
 - i. Name of Company shall not deploy any device or device component before receiving approval by the Arlington County POC. To obtain approval, Name of Company shall furnish design specifications, any applicable certifications of compliance with safety standards, and illustrative images of the device or device components. Upon request by Arlington County, Name of Company shall provide an opportunity for the Arlington County POC to physically inspect and test-ride the same model proposed for deployment.

¹ <https://www.gpo.gov/fdsys/pkg/CFR-1998-title16-vol2/xml/CFR-1998-title16-vol2-part1512.xml>

² <https://law.lis.virginia.gov/vacode/title46.2/chapter8/section46.2-1015>

- j. Name of Company shall ensure each Name of Company SMD deployed and used is fully operable, free of defects, conforms to relevant safety standards, and is well-maintained and clean.
 - k. If a Name of Company SMD is reported in need of maintenance and/or cleaning in violation of the terms and performance measures in this MOA and all laws, Name of Company shall immediately prevent further use of the device, and within one day of notification, shall remove it from Arlington County right-of-way.
 - l. Name of Company shall inform its customers that electric scooters are prohibited from operating on sidewalks (per Va Code §46.2-903) and that electric scooters and electric bicycles are prohibited from riding on Arlington County bike trails (per Arlington County Code §14.2-64.1).³
 - m. Name of Company shall inform its customers that electric Scooters are prohibited from operating on sidewalks (per Va Code §46.2-903) and that electric scooters and electric bicycles are prohibited from riding on Arlington County bike trails (per Arlington County Code §14.2-64.1).⁴
 - n. Name of Company shall require and ensure that the minimum age for any rider of electric Scooters or electric Bicycles shall be sixteen (16) years of age.
4. Operations
- a. Name of Company is responsible for maintaining its fleet size within Arlington County at or below the maximum permitted fleet size of 200 SMDs. However, if Name of Company can demonstrate an average of at least six (6) trips per device per day over a full month, and compliance with this MOA's requirements, Name of Company may request in writing to the Arlington County POC to expand its fleet size by as many as 50 devices per mode each month, up to a maximum fleet size of 350 devices per mode per company.
 - b. If, Name of Company can't maintain at least six (6) trips per device per day, then Arlington County may require Name of Company to decrease its fleet size in increments of 50 SMDs, until Name of Company again meets this performance requirement or reaches their initial fleet size.
 - c. Name of Company shall have a staffed operations center in the Washington, D.C. region.
 - d. Name of Company shall have a customer service phone number for reporting safety concerns, complaints, and questions that is live 24 hours a day. This phone number and its website shall be provided on every SMD that is in service within Arlington.
 - e. Name of Company shall provide to the Arlington County Bikeshare Manager the phone number and email for Name of Company's local general manager.
 - f. Name of Company shall provide their preferred contact information for SMD parking issues to the Arlington County Police at 703-228-4057.

³ <https://law.lis.virginia.gov/vacode/title46.2/chapter8/section46.2-903>

⁴ <https://law.lis.virginia.gov/vacode/title46.2/chapter8/section46.2-903>

- g. Name of Company shall affix its logo and unique identifying number for the device to each SMD in Arlington County so that it is clearly visible and shall not allow other logos or advertisements to appear on any of its SMDs.
 - h. Name of Company shall regularly monitor the deployment and dispersion of its SMDs to maintain service throughout Arlington County.
 - i. Name of Company must notify SMD users of Arlington County and state regulations applicable to operating SMDs in Arlington County. These notifications must at minimum be received through the mobile app and website for the service.
 - j. Name of Company shall promptly respond directly to Arlington County residents and all users reporting problems, issues and/or requesting information regarding Name of Company services.
5. Parking
- a. Name of Company shall ensure that Name of Company SMDs are parked in accordance with the terms and performance measures outlined in this MOA, permit requirements, and in compliance with all state and local laws.
 - b. Name of Company shall work to ensure that Name of Company SMDs are parked in a manner that does not impede pedestrian access; does not obstruct access to fire hydrants and valves, street furniture, crosswalks, the public right of way, or any public property, including but not limited to, public buildings, public parks or open spaces, public trails, driveways or private property; does not damage any property, including but not limited to, landscaping, street trees or other aesthetic features; and does not interfere with traffic or bus stop operations or operation and use of Capital Bikeshare stations.
 - c. Similar to [Section 14.2-65.G](#) of the Arlington County Code, customers shall be instructed by Name of Company to park Bicycles only at bicycle racks, street signs, and light posts.⁵ Parking shall be done in such a manner as to afford the least obstruction to pedestrian and vehicular traffic. The same shall apply to Scooters.
 - d. SMDs shall not be parked with any part of the vehicle extending over the face of curb.
 - e. SMDs shall be upright when parked.
 - f. Any SMD parked on private, federal, or military property is subject to the requirements of that property owner and may be towed at any time at Name of Company's expense.
 - g. Within two (2) hours of reporting by Arlington County or others, Name of Company shall remove Name of Company SMDs parked in violation of the parking requirements outlined above, or otherwise in conflict with applicable laws and regulations, or in violation with other SMD or bicycle parking standards to be developed and periodically updated by Arlington County.
 - h. SMDs are not permitted to park in one location in the public right-of-way longer than seven consecutive days without moving.

⁵ <https://arlingtonva.s3.amazonaws.com/wp-content/uploads/sites/22/2014/01/County-Code-14-2-Motor-Vehicles-and-Traffic.pdf>

- i. Failure to adhere to these parking performance measures may result in Arlington County removing the SMD and storing it in a facility available to Arlington County. Name of Company shall be required to pick up SMDs from such a facility and shall pay all costs associated with removal and storage of the devices, in addition to any applicable fines or fees, or other penalties as appropriate under the law. Subject to applicable laws and regulations, Arlington County shall consider Name of Company SMDs abandoned and dispose of them as Arlington County deems fit in the event of that Name of Company fails to retrieve the device in due time upon being notified of the removal and storage.
6. Data
- a. Without prejudice to Name of Company's rights and interest to its commercially privileged and sensitive information, Name of Company shall provide to the Bikeshare Manager the following data in a Monthly Report by the 15th of each month for the previous month's activity:
 - i. Total active customers who reside in the County
 - ii. Trips starting and trips ending, separately, in the County during the month, and trips starting and trips ending in the County since launch (raw trip data)
 - iii. Average trip duration in minutes
 - iv. Average and total distance of trips (if this is calculable from provided raw trip data, no need to provide separately)
 - v. Daily SMDs in service in the County
 - vi. A map of trip route data for all trips starting, ending, or passing through Arlington (especially to understand the equity implications of coverage of these services), by month
 - vii. Crashes – giving time, date, precise location, and number of parties impacted
 - viii. Injuries – giving time, date, precise location, and cause (if known)
 - ix. Number and precise location of SMD that had to be towed after seven (7) consecutive days in one location
 - x. Complaints received – giving the reason with date and location, if available/appropriate
 1. Incorrectly parked SMD reports – giving time, date, and precise location
 2. Speeding reports
 3. Other complaints
 - xi. Other feedback received – by date, time, and precise location, if applicable
 - b. If Name of Company collects de-identified demographic data from their customers, including age cohort, gender, and general trip purpose, such data shall be provided by Name of Company to Arlington County, upon request.
 - c. Name of Company shall provide a publicly-accessible application program interface, clearly posted on the company's website that shows, at minimum, the current location of any dockless vehicles available for rental at all times.
 - d. A smart phone-based application used to rent dockless vehicles does not qualify as a publicly accessible application program interface.
 - e. Name of Company shall use the General Bikeshare Feed Specification (GBFS) as documented at <https://github.com/NABSA/gbfs/> for its devices. Name of Company shall

inform Arlington County of the location of the gbfs.json file on the Internet. The gbfs.json file contains the necessary information to find other files related to the GBFS data. If a token or authentication is required to view that file, the location to apply for the token must also be submitted to Arlington County.

- f. Arlington County requires that Name of Company publish in a location accessible by Arlington County staff six of the GBFS v1.1 draft files. Below are the required files that must be published:

gbfs.json	Auto-discovery file that links to all of the other files published by the system. <i>This file is optional in the GBFS, but required by Arlington County.</i>
system_information.json	Describes the system including system operator, system location, year implemented, URLs, contact info, and time zone.
station_information.json	Mostly static list of all stations, their capacities and locations. <i>(Note: This file may contain no information in a dockless system but is required by Arlington County in order to maintain compliance with the GBFS standard.)</i>
free_bike_status.json	Describes bicycles that are available in non-station-based systems. <i>This file is optional in the GBFS, but required by Arlington County.</i>
geofencing_zone_information.json	Mostly static list of all geofencing zones, their capacities, locations and areas. <i>This file is optional in the GBFS, but required by Arlington County.</i>
geofencing_zone_status.json	Defines geofencing zones available in the system and their link to physical stations if any. <i>This file is optional in the GBFS, but required by Arlington County.</i> Elements within the num_bikes_available_types array are required by Arlington County and should be set to 0 if not applicable.
system_regions.json	Describes the regions the system is broken up into. <i>This file is optional in the GBFS, but required by Arlington County.</i>
vehicle_type.json	The field “vehicle_type” shall be added to the public API to describe the vehicle type. This may be either “bicycle,” “e-bike,” “scooter,” or another type of permitted vehicle that must be specified.

7. Penalties and Fines

Name of Company shall be financially responsible for any/all penalties, fines, and other costs to Arlington County as a result of illegally parked SMDs, including but not limited to, parking tickets or other enforcement actions against Name of Company.

8. Surety Bond

Name of Company shall maintain a \$5,000 surety bond which Arlington County may use to pay costs related to removing and storing devices that do not comply with these permit requirements, if such costs are not born by Name of Company.

9. Advertising

Name of Company shall not advertise or publish Arlington County's participation in or endorsement of the Name of Company on its SMDs or promotional material without the written consent of Arlington County.

Name of Company shall not utilize its SMDs for the sale or display of third-party advertising.

10. Remedies

If Name of Company violates its obligations under this MOA and such violation is not corrected within one week's time following written notice by Arlington County, Arlington County may immediately terminate the Demonstration Project, this MOA, and/or suspend or revoke Name of Company's permit.

11. No Right, Title or Interest

Name of Company expressly acknowledges that this MOA does not constitute any conveyance, title, or interest in real property, in whole or in part.

Article III. Duration

- A. This MOA shall become effective upon signature by Arlington County and shall remain in effect for an initial term of nine (9) months and may be renewed by Name of Company for an additional three (3) months upon ten (10) days' notice to, and the written consent of, Arlington County. This MOA may be modified only by mutual consent of authorized representatives from both parties, in writing.
- B. Upon expiration of the Permit, Name of Company shall remove all of its SMDs from Arlington County right-of-way.

Article IV. Service Area

This MOA, in conjunction with a completed and approved Permit Application, authorizes Name of Company to operate within any portion of Arlington County.

Article V. Insurance and Indemnification

1. Insurance Requirements

Before providing any SMDs associated with this MOA or any extension of this MOA, Name of Company must provide to the Arlington County Point of Contact a Certificate of Insurance indicating that Name of Company has in force at a minimum the coverage below. Name of Company must maintain this coverage until the completion of the MOA or as otherwise stated in the MOA and/or permit documents. All required insurance coverage must be acquired from insurers that are authorized to do business in the Commonwealth of Virginia,

with a rating of “A-“ or better and a financial size of “Class VII” or better in the latest edition of the A.M. Best Co. Guides.

- a. Workers Compensation - Virginia statutory workers compensation (W/C) coverage, including Virginia benefits and employer’s liability with limits of \$100,000/100,000/500,000. Arlington County will not accept W/C coverage issued by the Injured Worker's Insurance Fund, Towson, MD.
- b. Commercial General Liability - \$1,000,000 per occurrence, with \$2,000,000 annual aggregate covering all premises and operations and including personal injury, completed operations, contractual liability, independent contractor, and products liability. The general aggregate limit must apply to this MOA. Evidence of contractual liability coverage must be typed on the certificate.
- c. Business Automobile Liability - \$1,000,000 combined single-limit (owned, non-owned and hired).
- a. Additional Insured – Arlington County and its officers, elected and appointed officials, employees and agents must be named as additional insureds on all policies except workers compensation and automotive and professional liability; and the additional insured endorsement must be typed on the certificate.
- b. Cancellation - If there is a material change or reduction in or cancellation of any of the above coverages during the MOA Term, Name of Company must notify the Arlington County Point of Contact immediately and must, with no lapse in coverage, obtain replacement coverage that is consistent with the terms of this MOA. Not having the required insurance throughout the MOA Term is grounds for termination of this MOA.
- c. Claims-Made Coverage - Any “claims made” policy must remain in force, or Name of Company must obtain an extended reporting endorsement, until the applicable statute of limitations for any claims has expired.
- d. Contract Identification - All insurance certificates must state this MOA 's number and/or title.

Name of Company must disclose to Arlington County the amount of any deductible or self-insurance component of any of the required policies. With Arlington County’s approval, Name of Company may satisfy its obligations under this section by self-insurance for all or any part of the insurance required, provided that Name of Company can demonstrate sufficient financial capacity. To do so, Name of Company must provide Arlington County with its most recent actuarial report and a copy of its self-insurance resolution.

Arlington County may request additional information to determine if Name of Company has the financial capacity to meet its obligations under a deductible and may require a lower deductible; that funds equal to the deductible be placed in escrow; a certificate of self-insurance; collateral; or another mechanism to guarantee the amount of the deductible and ensure protection for Arlington County.

Arlington County’s acceptance or approval of any insurance will not relieve Name of Company from any liability or obligation imposed by this MOA or permit documents.

Name of Company is responsible for the for all materials, tools, equipment, appliances and property used in connection with this MOA. Name of Company assumes all risks for direct and indirect damage or injury to the

property used or persons employed in connection with any activities associated with this MOA and for all damage or injury to any person or property, wherever located, resulting from any action, omission, commission or operation under this MOA or in connection in any way whatsoever with the activities performed pursuant to this MOA. Name of Company insurance shall be the primary non-contributory insurance for any work performed or activities or services provided for under this MOA.

Name of Company is as fully responsible to Arlington County for the acts and omissions of its sub-contractors and of persons employed by them as it is for acts and omissions of persons whom Name of Company employs directly.

B. Indemnification.

Name of Company covenants for itself, its employees and its subcontractors to save, defend, hold harmless and indemnify Arlington County and all of its elected and appointed officials, officers, current and former employees, agents, departments, agencies, boards and commissions (collectively the "County Indemnitees") from and against any and all claims made by third parties for any and all losses, damages, injuries, fines, penalties, costs (including court costs and attorneys' fees), charges, liability, demands or exposure resulting from, arising out of or in any way connected with the Name of Company's acts or omissions, including the acts or omissions of its employees and/or subcontractors, in performance or nonperformance of the MOA. This duty to save, defend, hold harmless and indemnify shall survive the termination of this MOA. If Name of Company fails or refuses to fulfill its obligations contained in this section, the Name of Company must reimburse Arlington County for any and all resulting payments and expenses, including reasonable attorneys' fees. Name of Company must pay such expenses upon demand by Arlington County.

Article VI. FOIA

The parties understand and agree that Arlington County is subject to the terms and provisions of Code of Virginia §§ 2.2-3700 *et. seq.*, the Virginia Freedom of Information Act ("VFOIA"). All public records in Arlington County's custody, possession or control shall be open to the public for inspection and copying to the extent that such disclosure is required by law.

Article VII. Termination

Either party may terminate this MOA (and in doing so, the associated Permit) with 10-days' notice to the other party. Upon termination, Name of Company shall remove all of the SMDs under its ownership or control within five (5) business days of the date of termination and shall cease all operations within the service area once the devices have been removed. Arlington County shall consider any Name of Company SMDs not removed as abandoned property and shall dispose of them as it deems fit.

IN WITNESS WHEREOF, the Parties hereto have caused this MEMORANDUM OF UNDERSTANDING to be executed as of the date first above written by their duly authorized representatives.

Arlington County, Virginia

Title:

Signature: _____

Name of Company Inc.

Title:

Signature: _____

DRAFT

ATTACHMENT I

RESOLUTION ESTABLISHING A SHARED MOBILITY DEVICE PERMIT FEE

RESOLVED, that the County Board of Arlington County does hereby establish a Shared Mobility Device Permit Fee in the amount of \$8,000. It shall be effective October 1, 2018.

Kendra Jacobs, Clerk
Arlington County Board