

The City of San Diego issued a Request for Proposals, (RFP), on November 10, 2021 for shared mobility device companies to provide a contracted rental service. The RFP states the requirements of contractors providing Shared Mobility Device, (SMD), services in San Diego and addresses a long-standing major public safety issue: the proliferation and use of motorized rental scooters on sidewalks and in doing so represents a significant shift in approach by the City, one that is greatly welcomed. Specific commendable features of the RFP include:

- the requirement that contractors prevent staging and parking of motorized scooters on sidewalks city-wide.
- the required use of technology by the contractor to ensure scooters are not driven on sidewalks.
- caps on the number vehicles, (max 8,000), and companies, (max 4).
- proposals for changes to the Municipal Code including that SMDs display a unique identifier and measures to prevent dual and underage driving.
- a requirement that the contractor explain how their operation contributes to the CAP.
- a goal utilization rate of two rides per device per day, (with exceptions) and an idle limit of three days.

These all represent desirable requirements, rules and regulations, (RRR), to enhance public safety. However, RRR alone are not sufficient to ensure that the safety of the public will be protected. Also essential are:

- **Evaluation** of contractors to select those most likely to be and remain in compliance,
- **Monitoring** of their compliance with RRR, and,
- **Enforcement** measures if they are not in compliance to either induce compliance or remove the contractor as an operator.

Requirements, Rules and Regulations imposed on the companies to attain laudable goals are meaningless if the City does not monitor compliance and take action when a company is out of compliance.

Our concern is about:

- the lack of detail on the evaluation of applicants,
- the lack of clarity and transparency about both processes for monitoring and enforcing compliance,
- the lack of resources currently devoted by the City for each, and,
- a one year or longer delay on imposing fines for failure to achieve the target utilization rate or idle limit.

Clarity and transparency are both needed on what constitutes compliance and the penalties for non-compliance in order for the companies to submit appropriate proposals, avoid providing grounds for contractors to appeal rejections and enforcement measures and for the public to have confidence that the City intends to achieve its stated goals.

For both the RFP and changes to the Municipal Code, actions are needed as set out in the following section.

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REQUESTS FOR ACTION

ACTIONS REGARDING THE REQUEST FOR PROPOSALS

Provide clarity as to what “compliance” and thus good standing mean in the administration of the RFP.

- The RFP indicates this is compliance with all requirements, rules and regulations, otherwise the contract may be terminated, but that is an extreme position unlikely to be enforceable. If compliance is not defined in such absolute terms then that begs the questions how is it defined?

Develop and apply objective and quantifiable measures which capture relevant, qualitative aspects of the criteria to evaluate proposals and to determine being in good standing throughout the contract period.

- Otherwise evaluation and monitoring processes will be subjective which opens grounds for appeal against the City’s decision to award contracts and impose sanctions, and will fail to capture important aspects of them.

Clarify how exemptions in proposals are to be considered in the evaluation process.

- The RFP allows for proposals to contain exemptions. Will such lead to possible rejection, or a lowered evaluation? If so, what exemptions might have an effect and how?

Clarify the assignment of responsibility for conducting evaluation, monitoring compliance, the process(es) used, their transparency and when they are applied: which department and personnel form the Evaluation Committee, are to monitor for compliance, how and how often?

- If this is not done the contractors have no incentive to be or remain in good standing.

Clarify the consequences for companies being out of compliance: what enforcement action will they face and what triggers that action?

- Clarity helps the contractors decide whether to submit a proposal and reduces the likelihood of an appeal in the event that a contract is not awarded.

Clarify how changes during the contract’s 3-5 year period to the initially required information and provided in a proposal, are to be dealt with.

- It is likely that required plans and information will change over the 3-5 years of the contract, potentially making information, initially provided to secure the contract, obsolete.

ACTIONS REGARDING PROPOSED CHANGES TO THE MUNICIPAL CODE

The RFP document indicates that changes to the Municipal Code will be proposed, some of which, if effected, are welcomed, e.g. prohibition of use of sidewalks for staging and parking of motorized scooters.

However we have concerns about others, propose that at least one is rejected outright and propose additional changes for the Council to consider.

ACTIONS REGARDING THE CHANGES PROPOSED IN THE RFP

The following are proposed changes to some of the proposals made in the RFP, (numbers refer to the numbered items, 1-14, in the RFP). Requested action in **bold**:

- 2. Require instead that a Driver’s License and photo be checked against the person, as required by state law, VC 14608 (a) (1) and (2).**

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6. **Either define parking as including staging or amend to “Prevention of staging and parking...”.**
8. **Clarification of scooter staging and parking, to include users of scooters, requiring the utilizing of City-established corrals when present;** Delete “when present”. This phrase creates ambiguity about the intent to limit the staging and parking of scooters only to City-designated corrals.
10. **Do not impose a wait time on impounding.** Contractors are able to determine the location and condition of their devices and do not need to receive a report from the City to be aware of and rectify non-compliance issues. Because the users provide the company immediate notification of the location of the device and a photo of it at the end of the ride and because the companies’ devices are equipped with GPS technology, the company has information about both its location and any associated issue when the user ends the rental. A report via GID or from the City’s agent may occur a considerable time afterwards, if at all, and such reports do not cover the range of locations or times comprehensively.

If there is a one-hour wait time, clarify that both provision of a GID report or notice from the City’s agent, whichever is the earlier, is the start of the wait time.

11. **Explain how “immediate impounding” can occur during those hours when the impounding service is not operating.** Currently there is no coverage after 2pm.

State that the City may impound without notice any SMD not in a corral, parked or staged on a sidewalk, creating an ADA violation, posing an imminent life safety hazard, within fifteen feet of a fire hydrant or blocking street sweeping. All of these pose public safety hazards or are prohibited by law.

12. **Clarify how penalties, regulatory actions, and grounds for termination of a contract for device violations will be implemented, what thresholds apply for termination or other sanctions and which department will apply them and how.**

14. **Reject this proposal, which makes it illegal for the public, including those accompanying pedestrians in wheelchairs and businesses, to move devices causing obstacles. We strongly object to proposed change 14.**

Replace with a regulation that SMDs may only be left on private property with the prior written authorization of the owner or manager.

ACTIONS REGARDING ADDITIONAL CHANGES TO THE MUNICIPAL CODE AND ENFORCEMENT

We respectfully request that the Council acts to adopt the following additional proposed changes to the Municipal Code:

- **The SMD companies geofence their SMDs:**
 - **To 3mph:**
 - **on all streets where driving is illegal,**
 - **when driving on any street designated as part of the City’s “Slow Streets” program,**
 - **To a stop:**
 - **When sidewalk driving is detected.**
- **That if anti-DUI technology is available it must be applied.**

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- **State that the City may impound without notice any SMD not in a corral, parked or staged on a sidewalk, creating an ADA violation, posing an imminent life safety hazard, within fifteen feet of a fire hydrant or blocking street sweeping.**
- **State that SMDs may only be left on private property with the prior written authorization of the owner or manager.**
- **Create a new “Gaslamp Zone” between Harbor Drive and Broadway comprising pedestrianized areas from which motorized vehicles would be prohibited and in which SMDs would be geofenced to 3mph.**
- **Require the operators to have a recycling and waste management program that is in compliance with County and State guidelines for universal waste.**

We respectfully request that the Council acts to address the need for enforcement taking the following actions:

- **Reinstate targeted enforcement against moving violations,**
- **Expanded hours of operation for impounding, either to the extent originally contracted, (14h), or more to cover the entire period when violations occur,**
- **The establishment of a system for issuing parking tickets to owners of SMDs, and,**
- **The application of penalties for non-compliance by the identified body responsible for enforcement.**

FEES

The RFP changes the basis on which fees are paid by operators from one based on fleet size to one based on percent of the fleet deployed. This and the fees charged, (\$0.75 per device deployed per day), will result in diminished income for the City in years to come, (see Appendix 1), and makes necessary monitoring of device numbers. CM LaCava stressed at the May 2021 AT&I meeting the need to cover the full cost of administration and enforcement but it is not clear that the new fee levels and basis will do so. We respectfully request that the Council acts to:

- **Require that the full cost of administration and enforcement be accounted for and covered by the RFP.**

CONCLUSION

The RFP represents a significant change of direction to enhance public safety and many aspects of the RFP and proposed changes to the Municipal Code are welcomed.

However, transparency and clarification are needed regarding evaluation, monitoring and enforcement as well as the ability of the program to cover its full costs and these should be provided prior to the signing of contracts, ideally as soon as possible but necessarily before the proposals are evaluated.

See <https://SafeWalkwaysUSA.com> for a copy of our full Request For Action document and the original RFP. For further information contact Jonathan Freeman 714.316.6515.

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APPENDIX 1.
ESTIMATED INCOME TO CITY UNDER RFP FEES BASED ON % OF FLEET DEPLOYED COMPARED WITH WITH INCOME BASED ON FLEET SIZE.

		Notes
TOTAL FLEET SIZE	8,000	
ADAPTABILITY SCOOTERS	400	Assuming not counted as "deployed".
MAX DEPLOYABLE	7,600	
Income per device deployed per day.	\$0.75	Income is to be paid monthly.
Income per device deployed per year.	\$273.75	Current fee per device per year after discount: \$135.
PROPORTION OF FLEET DEPLOYED	INCOME AT AVERAGE ANNUAL % DEPLOYED.	DIFFERENCE BETWEEN FEE BASED ON PERCENTAGE DEPLOYED VERSUS TOTAL FLEET SIZE OF 8,000.
100%	\$2,080,500	\$0
90%	\$1,872,450	(\$208,050)
80%	\$1,664,400	(\$416,100)
70%	\$1,456,350	(\$624,150)
60%	\$1,248,300	(\$832,200)
50%	\$1,040,250	(\$1,040,250)
40%	\$832,200	(\$1,248,300)
30%	\$624,150	(\$1,456,350)
20%	\$416,100	(\$1,664,400)
10%	\$208,050	(\$1,872,450)
Note:	The income at 100% deployment is what the City would earn if the fee was based on the capped fleet size of 8,000 rather than the % deployed.	

