

City Attorney's Office

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OFFICE OF THE CITY CLERK  
OAKLAND

2019 OCT 11 AM 9:58

## OAKLAND CITY COUNCIL

RESOLUTION NO. 87862 C.M.S.

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**RESOLUTION: (1) AUTHORIZING THE CITY ADMINISTRATOR OR DESIGNEE TO ENTER INTO DATA SHARING AGREEMENTS WITH DOCKLESS MOBILITY SERVICE PROVIDERS FOR DOCKLESS MOBILITY PROGRAM MANAGEMENT AND ENFORCEMENT PURPOSES; (2) APPROVING THE SURVEILLANCE IMPACT REPORT FOR THE DEPARTMENT OF TRANSPORTATION'S (DOT'S) USE OF DOCKLESS MOBILITY DATA; (3) APPROVING AND ADOPTING THE SURVEILLANCE USE POLICY FOR DOT'S USE OF DOCKLESS MOBILITY DATA AS CITY POLICY; AND (4) AUTHORIZING DOT TO PROCURE AND USE ANY NECESSARY DATA AGGREGATION OR ANALYSIS SOFTWARE THAT COMPLIES WITH THE APPROVED SURVAILLANCE USE POLICY FOR DOT'S USE OF DOCKLESS MOBILITY DATA**

**WHEREAS**, the City of Oakland recognizes dockless mobility services, such as car share, bike share, and scooter share, as beneficial modes of transportation that reduce demand for private vehicles, decrease per capita greenhouse-gas emissions, and create more affordable mobility options for all of Oakland's residents; and

**WHEREAS**, the City of Oakland adopted a Bike Sharing Policy (Resolution No. 85715 C.M.S.) which calls for the implementation of a bike sharing program that facilitates the "last mile" of transit trips and non-auto short trips; and

**WHEREAS**, the City of Oakland adopted a Dockless Scooter Sharing Policy (Resolution No. 13502 C.M.S.) which calls for the establishment of regulations and new permits to operate and park dockless scooter sharing programs in the public right of way; and

**WHEREAS**, the City of Oakland emended the Fiscal Year 2018-2019 Master Fee Schedule (Resolution No. 13508 C.M.S.) establishing fees for the new dockless scooter sharing permit program; and

**WHEREAS**, unregulated shared-use dockless vehicles proliferating in our community can cause problems, including impeding the public right of way, lack of accountability for improper use and placement, and can cause tripping hazards; and

**WHEREAS**, Data sharing agreements with dockless mobility service providers enables the active management of the City's public right of way and regulation of dockless mobility vehicles by providing real-time data on vehicle trips, parking events, and deployment; and

**WHEREAS**, real-time dockless vehicle data is necessary for the responsible management of dockless mobility programs, such as enforcing permits, ensuring equitable distribution of vehicles, collecting program fees, and issuing fines; and

**WHEREAS**, the alternative means of managing dockless mobility programs and enforcing program permits requires increased staff time, funding and dependence on operators for reliable data; and

**WHEREAS**, data received from data sharing agreements with dockless mobility providers can also inform future transportation planning and policy; and

**WHEREAS**, the Department of Transportation's (DOT) proposed use of dockless mobility data is a form of surveillance technology subject to the acquisition, use, and policy requirements set forth under Chapter 9.64 (Surveillance Ordinance) of the Oakland Municipal Code; and

**WHEREAS**, OMC Section 9.64.030 provides that City staff must obtain City Council approval for the acquisition and use of new surveillance technology; and

**WHEREAS**, OMC Section 9.64.020 requires that prior to seeking Council approval for the acquisition and use of surveillance technology, City staff must first develop a Surveillance Impact Report and Surveillance Use policy, present such policy to the Privacy Advisory Commission (PAC) and that the PAC shall then provide feedback to staff and make a recommendation as to whether the City Council should accept the surveillance use policy proposed by City staff; and

**WHEREAS**, Pursuant to the Surveillance Ordinance requirements referenced above, DOT staff has presented a Surveillance Impact Report and a Surveillance Use Policy for Data Sharing Agreements with Dockless Mobility Service Providers for Mobility Program Management and Enforcement before the PAC, worked extensively with and received feedback from the PAC and responded to public comment on the topic of Data Sharing Agreements with Dockless Mobility Service Providers for Mobility Program Management and Enforcement; and

**WHEREAS**, The Data Sharing Agreements with Dockless Mobility Service Providers for Mobility Program Management and Enforcement Surveillance Use Policy and Surveillance Impact Report incorporates the recommendations of the PAC. This policy specifies authorized uses for Dockless Mobility Data for Mobility Program Management and Enforcement, and sets forth practices for data aggregation, anonymization, retention, sharing, and annual reporting; and

**WHEREAS**, OMC Section 9.64.030.2 requires that for City Council to authorize the acquisition of use surveillance technology, it must do all of the following:

- Approve City's staff's surveillance impact report,
- Approve City's staff's surveillance use policy,
- Consider the recommendation(s) of the PAC on the proposed surveillance technology, and
- Make a finding that the benefits to the community of the surveillance technology outweigh the costs (cost benefit determination); that the proposal will safeguard civil liberties and civil rights, and that, no alternative with a lesser economic cost or impact on civil rights or civil liberties would be as effective; and

**WHEREAS**, pursuant to OMC Section 9.64.020.2.B, the PAC recommends that the City Council adopt the DOT Data Sharing Agreements with Dockless Mobility Service Providers Surveillance Technology Use Policy (Attachment A); and

**WHEREAS,** City staff recommends that City Council make a cost benefit determination as required by OMC Section 9.64.030.2 in favor of authorization of Data Sharing Agreements with Dockless Mobility Service Providers because the use of real time dockless vehicle trip and parking data for mobility program management and enforcement should save staff time and taxpayer dollars, and City staff has developed a surveillance use policy that safeguards civil liberties and civil rights and evaluated such concerns in drafting the surveillance impact report for DOT Data Sharing Agreements with Dockless Mobility Service Providers in discussions with the PAC; now, therefore be it

**RESOLVED:** That pursuant to Oakland Municipal Code Section 9.64.030.2, the City Council approves City's staff's Surveillance Impact Report for the DOT Data Sharing Agreements with Dockless Mobility Service Providers, as provided in **Attachment B**; and be it

**FURTHER RESOLVED:** That pursuant to OMC Section 9.64.020.2, City Council has considered PAC's recommendation in favor of City Council authorizing the use of Data Sharing Agreements with Dockless Mobility Service Providers for Mobility Program Management and Enforcement; and be it

**FURTHER RESOLVED:** That the City Council approves and adopts the Surveillance Use Policy for DOT Data Sharing Agreements with Dockless Mobility Service Providers as a City policy, as provided in **Attachment A**; and be it

**FURTHER RESOLVED:** That the City Administrator Or Designee is authorized to procure and use any necessary data aggregation or analysis software that complies with the approved Surveillance Use Policy For DOT's Use Of Dockless Mobility Data.

**FURTHER RESOLVED:** That pursuant to OMC Section 9.64.020.2, for the reasons referenced above by City staff and addressed in the agenda report and surveillance impact report accompanying this resolution, the City Council finds that the benefits to the community of the surveillance technology outweigh the costs (cost benefit determination); that the proposal will safeguard civil liberties and civil rights, and that, no alternative with a lesser economic cost or impact on civil rights or civil liberties would be as effective; and so authorizes the City Administrator or designee's acquisition and use of the Data Sharing Agreements with Dockless Mobility Service Providers for Mobility Program Management and Enforcement; and be it

**FURTHER RESOLVED:** That City Council's authorization of the use of Data Sharing Agreements with Dockless Mobility Service Providers for (3) three purposes: 1) mobility program management, enabling access to real-time dockless vehicle data in support of actively managing the City's dockless mobility programs and their impact on the public right of way; 2) permit enforcement, increasing staff's capacity to monitor operator compliance with permit Terms and Conditions, ensure equitable distribution of vehicles, calculate program parking fees, enforce violations and issue fines; and 3) transportation planning and policy development; and be it

**FURTHER RESOLVED:** That any changes to the adopted Surveillance Use Policy for DOT Data Sharing Agreements with Dockless Mobility Service Providers must be forwarded to the Privacy Advisory Commission and City Council for review and approval.

IN COUNCIL, OAKLAND, CALIFORNIA,

**SEP 17 2019**

PASSED BY THE FOLLOWING VOTE:

AYES - FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, ~~WILSON~~  
AND PRESIDENT KAPLAN — 7

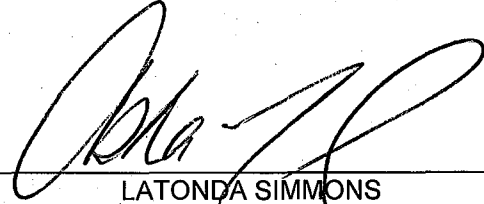
NOES - 0

ABSENT - 0

ABSTENTION - 0

1 Excused - Thao

ATTEST:



LATONDA SIMMONS  
City Clerk and Clerk of the Council of the  
City of Oakland, California