

RESOLUTION NO. 20-110**Resolution Of The City Council Of The City Of Emeryville Concluding The City's Contractual Obligations Related To A Right Of First Offer For Operation Of A Bike Share Program With Electric-Assist Bicycles**

WHEREAS, a bike share program ("Program") has been operated in five bay area cities (Emeryville, Berkeley, Oakland, San Francisco and San Jose) since 2017, first by Motivate, LLC ("Motivate") and subsequently by Lyft, Inc. ("Lyft") which acquired Motivate in 2018; and

WHEREAS, the Program is run in accordance with three documents: a "Program Agreement" between the Metropolitan Transportation Commission ("MTC") and Motivate dated November 4, 2015, a "Coordination Agreement" among the five cities, Motivate, and the MTC dated December 31, 2015 and a "First Amendment to the Coordination Agreement" among the same seven parties, dated November 21, 2016; and

WHEREAS, the Coordination Agreement includes a ten-year period of exclusivity for the "classic," non-electric, bike share system and a provision for cities to provide Lyft with a right of first offer (ROFO) for electric-assist bikes (e-bikes); and

WHEREAS, pursuant to the terms of the Coordination Agreement, the City of Emeryville made an offer to Lyft, and the City of Emeryville and Lyft have negotiated terms for an e-bike program, and have not come to an agreement; now, therefore, be it

RESOLVED, by the City Council of the City of Emeryville that Emeryville's obligations under the Right of First Offer process established in the Coordination Agreement have been fulfilled and concluded, thereby providing the City of Emeryville the right to issue a solicitation or other form of procurement for shared e-bike services.

ADOPTED, by the City Council of the City of Emeryville at a regular meeting held Tuesday, October 20, 2020, by the following vote:

AYES:	<u>5</u>	Mayor Patz, Vice Mayor Martinez, and Council Members Bauters, Donahue, and Medina
NOES:	<u>0</u>	
ABSTAIN:	<u>0</u>	
ABSENT:	<u>0</u>	

DocuSigned by:

Christian R. Patz

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MAYOR

ATTEST:

DocuSigned by:

Shari Hartz

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CITY CLERK

APPROVED AS TO FORM:

Michael Quinn

CITY ATTORNEY