



MEMORANDUM

TO: Mayor and Council

CC: Marc A. Ott, City Manager
Robert D. Goode, P.E., Assistant City Manager

FROM: Robert Spillar, P.E., Director, Austin Transportation Department

DATE: September 24, 2014

SUBJECT: **Transportation Network Companies 90 day report;
response to Resolution 20140515-024 and CIUR 1311**

The May 15, 2014 City Council action directed the City Manager to convene a stakeholder working group to develop a framework for a pilot program to allow Transportation Network Companies (TNC) to operate legally. Additional direction was to prepare an interim report that updated the staff memorandum from May 31, 2013 entitled "Rideshare Report", and to report on the progress of the stakeholder working group.

Since May of 2013, ATD staff members have monitored how other jurisdictions have responded to the expansion of TNCs throughout the country. Attached is a summary of the changes that have been made in the cities listed in the 2013 report, and other locations which have moved forward with regulations.

Also attached is a summary of the development and activities of the stakeholder working group. The participants in the working group have been involved and the diversity of views and opinions has helped shape staff's work. Incorporating feedback from those meetings, ATD staff members have started drafting the preliminary recommendations for a pilot program framework. The preliminary draft recommendations were presented to the working group on September 22 and are attached to this memo. It is important to note that these were first presented to the group this past Monday and they are still being discussed, so this is a working document and subject to change. The next meeting of the working group is scheduled for October 8.

The discussions with the stakeholder group have raised several issues related to current regulations for vehicles for hire. The pilot is an opportunity to test processes; for example, the TNCs have asked that the City look at quicker processes to allow drivers to enter the market. Currently, a vehicle for hire company sponsors a driver, then the City does background criminal and driving history checks. If those are approved, the driver can take a test and then they can get their chauffeur's permit. The TNCs have stated that their screening processes are sufficient. For the pilot, staff is considering allowing the TNCs to self-certify the drivers, followed by submittal of the driver information to the City. The City would randomly check the drivers, and if the driver is found to be out of compliance with the agreed upon parameters, then their driver's permit would be pulled and the TNC would be fined. This process would also be applied to taxicab companies during the pilot program, allowing the taxicab companies

to self-certify the drivers and the City would act in an auditing capacity. During the pilot, if there is found to be a significant problem with the self-certification, the process would be re-written to match the current City program. If this process works more efficiently, then it could be applied to all of the vehicle-for-hire companies.

In addition to the self-certification process, ATD staff does not intend to recommend a cap in vehicles operating for TNCs. In conjunction with the launch of the pilot program, ATD staff would recommend there be more taxicab permits allocated to each of the franchises if there is no cap on TNCs. The current recommendation is to add 10% more available taxicab permits this fall. Also included in the preliminary draft recommendations is the recommendation that the existing taxicab permits be able to be utilized 24 hours a day.

Across the country, an issue which does not have an easy answer is how to address accessibility for all potential users. The California Public Utility Commission has required that the TNCs prepare a plan to address the issue, but we are not aware of the fulfillment of that requirement. This topic has been discussed in the stakeholder group and the TNCs were asked to identify a model elsewhere in the country where this issue has been sufficiently addressed.

The stakeholder working group is nearly finished meeting. Staff will finalize the pilot program framework recommendations, and they should be available to the City Council in mid-November for potential action by the current City Council.

The resolution asks for information on the impact of TNCs on costs, reliability, wait times, and driver wages for taxicab drivers, taxi franchises and other forms of public transportation. Staff is identifying how the data might be collected. We currently get monthly reports from the taxi companies. The following data is from this past year. We are looking back at older data to determine if the decreases are part of an annual trend or might be from the influx of alternative modes.

Number of calls for rides

Average for October 13 to March 14 – 279,348 per month

April 14 – 269,366

May 14 – 308,288

June 14 – 271,576

July 14 – 253,177

Total completed trips (dispatch and hail)

Average for October 13 to March 14 – 263,537 per month

April 14 – 284,326

May 14 – 283,726

June 14 – 236,545

July 14 – 234,417

Average income per hour from taxi meter

Average for October 13 to March 14 – \$14.58 per hour

April 14 – \$16.66 per hour

May 14 – \$15.85 per hour

June 14 – \$14.96 per hour

July 14 – \$14.22 per hour

The resolution additionally asks for preliminary recommendations. Preliminary data from the TNCs would be useful to the Transportation Department because it would provide a baseline of service, depict the current demand for TNCs and allow us to measure the growing demand and potential impact on other ground transportation service providers. This is particularly important as the resolution specifically calls for the pilot program recommendation to “take into account the already stringent regulations required of City of Austin taxicab companies.” In order to measure the impact on the taxicab companies, we would like data to show if there is an increase in demand for services, and any potential shift in demand. This could impact the strict regulations that currently apply to the taxicab companies, in particular the formula used to determine available taxicab permits. The data we’d like to immediately start collecting from TNCs include:

The following data would be provided in four hour blocks:

- Requests for service
- Number of trips requested but not serviced
- Number of vehicles active/logged in
- Pick up/drop off by zip codes
- Accessible rides requested and serviced
- Accessible rides requested and not serviced
- Response times for all rides requested, with the ability to determine response times based on time of day, or if the request was for an accessible vehicle.

The following data would be provided daily – per day/per driver:

- Hours logged into the app (12 hour max per driver/per day)

The following data would be provided monthly:

- Number of passengers transported
- Revenue generated

This list of data also represents the data requirements we intend to recommend for the pilot program.

Attachments:

1. Updated Rideshare Report: Transportation Network Company (TNC) National Developments
2. Transportation Network Company (TNC) Working Group Progress
3. Draft Preliminary ATD Staff Recommendation, TNC Pilot Program Framework

Recent National Developments on Rideshare

I. California Public Utilities Commission (PUC)

All California cities are impacted by the actions of the California Public Utilities Commission. We received specific comment from San Francisco, with concurrence from other cities.

The California Public Utilities Commission (PUC) issued a proposed decision on July 30, 2013 that indicated the Commissioner's **"firmly believes that TNCs (aka SPERs) do not meet the rideshare exemption and actually are for-hire transportation services."** The proposed decision also asserted, "...there is nothing about the 'new business model' of offering for-hire transportation services through the mechanism of a smartphone application that justifies abandoning the fundamental regulatory infrastructure of the transportation for-hire industry, or that changes the level of regulatory concern. The underlying principal continues to be ensuring public safety. Regulation is the safety net that the public should rely on for its protection." The proposed decision suggested creating a new category similar to charter services.

a. Update:

- i. The California Public Utilities Commission (CPUC) recently defined "TNC services", by clarifying three stages of operation:
 - Period One is: App open – waiting for a match.
 - Period Two is: Match accepted – but passenger not yet picked up.
 - Period Three is: Passenger is in the vehicle and until the passenger safely exits vehicle.
- ii. A minimum of at least \$1 million primary commercial insurance is required for Periods 2 & 3.
- iii. A minimum of at least \$100,000 for one person, \$300,000 for more than one person, and \$50,000 for property damage of excess commercial insurance is required for Period 1.
- iv. Insurance requirements can be met in one of two ways; 1) the TNC itself can maintain insurance on its own or 2) a combination of a TNC policy and a driver policy that is specifically written for the purpose of covering TNC services, or portion thereof.
- v. The CPUC has set out data reporting requirements for TNC operation including reports detailing:
 - Driver Training Program

- Accessibility Plan
 - Plan on Avoiding Divide between Able and Disabled Communities
 - Report on Providing Accessible Vehicles
 - Report on Providing Service By Zip Code
 - Report on Problems with Drivers
 - Report on Hours Logged by Drivers
 - Report on Miles Logged by Drivers
 - Report on Drivers Completing Driver Training Course
 - Annual Report Number of Drivers Completing Driver Training Course
 - Annual Updates on Accessibility Plan
 - Annual Report on Providing Accessible Vehicles
 - Annual Report on Providing Service by Zip Code
 - Annual Report on Driver Violations/Suspensions
 - Annual Report on Hours/Miles Logged by Drivers
- b. June 10, 2014, the CPUC contacted the licensed TNC's in regards to concerns that it is being reported from five major airports in California (Los Angeles International, Oakland International, San Diego International, San Francisco International, and San Jose International) that TNC drivers are continuously providing transportation services without having secured required permits. Citing the CPUC rule "Operations at Airports: TNCs shall not conduct any operations on the property of or into any airport unless such operations are authorized by the airport authority involved," the CPUC advised that those violations places their license in "jeopardy." The CPUC then urged the TNCs to bring their operations into compliance within two weeks or risk enforcement actions "including revocation" of their permit.
- c. Other California cities include (much of this data is from the 2013 Rideshare Report):
- i. **San Diego and Los Angeles** – (From 2013 Rideshare Report; CPUC Update applies.)
Cities were in proceedings with the California Public Utilities Commission,

similar to San Francisco.

Previously, the Los Angeles Department of Transportation issued letters to Sidecar, Lyft, and Uber ordering each company and all drivers and vehicles dispatched through the mobile app systems to cease and desist from picking up passengers within the city until they are properly licensed. The companies were advised that failure to comply with the notice is a misdemeanor offense and subject to criminal prosecution and the impoundment of vehicles.

- ii. **San Francisco** – (From 2013 Rideshare Report; CPUC Update applies.) The California Public Utilities Commission has issued cease and desist orders to 3 “app providers”. The PUC is in the midst of proceedings on “rideshare apps” and other issues associated with smartphone ride referral services. This proceeding is expected to last another several months.

“It has already allowed, in the interim, the continued operation of these entities notwithstanding evidence on record that some of these services do not include the benefit of auto liability insurance, among other safety concerns. The public doesn’t understand the rights they are waiving; the obligations they are undertaking and the risks they run when they use these services. The businesses we have experiences have misrepresented the nature of their services without any accountability to anyone, and have taken every opportunity to use social media and the press to disparage the taxi industry and the concept of for-hire regulation generally. It has reached the point in San Francisco that nearly every other car on the street has a pink mustache and our taxi industry is, no joke, looking to be on the verge of collapse. Road rage incidents between taxi drivers and these cars is a nightly occurrence. Although there is no way for me to know how many cars have been or are about to be deployed (it is impossible to monitor these services, much less regulate them), at this rate, it won’t be long before their numbers exceed the numbers of our taxi fleet. It is important to note that this is a transportation management issue as well. It impacts congestion management, pedestrian safety as well as emissions. We are concerned with “Who’s behind the wheel?” and “How much are they charging?” How can you successfully manage traffic when you have no control of the amount of commercial vehicles on the street? There is also a complete lack of data being made available.” (Source: Christiane Hayashi, Deputy Director of Taxi Services, San Francisco Municipal Transportation Agency. 3/5/2013 & 4/22/2013).

In his 2013 State of the City Address, San Francisco Mayor Lee stated, *"We're embracing alternate forms of transportation through the new 'Sharing Economy,' with carsharing provided by companies like City Carshare, Zipcar, Getaround and Relay Rides and electric scooter-sharing from SCOOT. And a growing number of San Franciscans look to their smartphones every day to summon a taxi, an Uber sedan, or participate in innovative rideshare services like Sidecar and Lyft."* (Source: 2013 State of the City Address, January 28, 2013, College Track, San Francisco <http://www.sfmayor.org/index.aspx?page=921>).

This statement, hailed by promoters of some smart phone application providers as demonstrated support by the City of San Francisco of their platform, is not consistent with the strategy being pursued by San Francisco regulating authorities. City of Austin Staff investigated the Mayor's statement and received the following response from the San Francisco Municipal Transportation Agency: *"Our Mayor, from a broad economic development perspective, has supported technological innovation and "the sharing economy."*

The Mayor's view is not shared by this local taxi regulator when it comes to the specific businesses Lyft and SideCar. To the contrary, ATD staff perceives regulatory problems to our transportation system.

Contrary to representations in media articles, neither the San Francisco taxi regulator, nor the California Public Utilities Commission that regulates charter party carriers has "cleared" SideCar to operate in San Francisco or in California. To the contrary, staff understands that SideCar in particular continues to be subject to a state CPUC cease and desist order because it has not been able to provide evidence of insurance coverage satisfactory to the California PUC.

The San Francisco Municipal Transportation Agency, which is the local taxi local regulator, has not yet acted one way or another in deference to the ongoing inquiry before the state government as to whether these services come within existing state regulation, or whether existing state regulation needs to change to accommodate them. The SFMTA and the San Francisco Airport have been actively engaged in the CPUC rulemaking proceeding however, and have filed multiple statements expressing concerns similar to those expressed in my letter. I would be happy to forward those statements filed before the CPUC, if that would be helpful. They are also available online at www.cpuc.ca.gov, docket number R12-12-011. See filings by SFMTA and the San Francisco International Airport. (Source: Christiane Hayashi, Deputy Director of

Taxi Services, San Francisco Municipal Transportation Agency
5/28/2013)

Note: the regulations in California are evolving on a daily basis. On Friday May 24, 2013 The San Francisco Business Times reported that “Sidecar (finally) gets CPUC approval for ridesharing”. However the text of that article also stated that “ridesharing services aren’t totally out of the woods yet. The CPUC is reviewing rules around ridesharing and will make a decision towards the end of the summer about whether these companies fall under its jurisdiction.” (Source: Lindsay Riddell, San Francisco Business Times, May 24, 20113, <http://www.bizjournals.com/sanfrancisco/blog/2013/05/sidecar-finally-gets-cpuc-approval.html>).

City of Austin staff anticipates that given their previous responses, municipal regulators such as those in San Francisco, will likely to continue to argue that they have jurisdiction to regulate and license what is or is not a legal service within their community or serving their airport.

II. Dallas, TX

Previously, the City of Dallas issued two cease and desist letters to Uber for illegal operations.

a. Update:

- i. The City of Dallas recently adopted changes that eliminate:
 - Distinctions between types of transportation for-hire operators, and types of vehicles.
 - Restrictions on the age and number of taxicabs.
 - Requirements for the dollar value of vehicles.
 - Regulation of fares.
- ii. The City of Dallas considers transportation-for-hire as any ride for compensation, whether hailed or pre-arranged and includes:
 - Taxicabs
 - Limousines
 - Non-motorized transportation-for-hire
 - Shuttles

- Intracity buses for hire
 - Personal vehicles serving as vehicle for hire
- iii. All forms of transportation-for-hire must secure an Operating Authority.
- iv. Drivers:
- Drivers must be permitted. One driver permit may be used under any or several Operating Authorities, so long as each Operating Authority registers the driver.
 - To secure a Driver permit, the applicant must complete training (City of Dallas contractor), undergo an annual background check, drug test, and driving record check by a company of the driver's choice. These results will be reviewed by the City's certification company.
 - The Driver permit may be used for any type of transportation-for-hire vehicle.
- v. Vehicle Permits:
- One permit may be used under any or several Operating Authorities as long as the operating authority identifies the vehicle.
 - Vehicle inspections shall be conducted annually by a City approved inspection company or companies.
 - Inspections include emissions and safety.
 - Vehicles shall be maintained in good operating condition and appearance.
- vi. Accessible Service:
- If an Operating Authority has ten (10) or more vehicles, at least one (1) or two (2%) percent of the fleet must be handicap accessible or the Operating Authority shall contract with a company to provide handicap accessible vehicles.
 - Cannot charge a higher fare for handicap accessible service.
- vii. Insurance:
- Primary insurance must be provided by the Operating Authority.

- One million dollar commercial automobile liability policy with combined single limit of liability for injury or property damage for each occurrence.
- Claims must be paid by the insurance company on a first dollar basis.
- Operating Authority insurance shall be the primary insurance at all times the driver or vehicle is working or available as transportation-for-hire.
- Any person who has a twenty percent (20%) or greater interest in the Operating Authority shall have no interest in the insurance company.
- The Operating Authority shall not be self-insured.

III. **Houston, TX**

Previously, the City of Houston issued one Cease and Desist order indicating the service violates the Houston City Code requiring licensing for providing for-hire services.

(Source: Nikki Cooper-Soto, Administrative Manager, City of Houston Administrative and Regulatory Affairs Department)

a. Update: The Houston City Council recently approved amendments related to the regulation of vehicles for hire and adopted a regulatory framework for the operation of Transportation Network Companies:

i. TNC's are required to obtain an operating permit (renewed annually).

ii. Insurance:

- Must secure insurance from a company that has a Best's Rating of at least B+ and a Best's Financial Size Category of Class VI or better.
- Insurance must be in the form of Commercial automobile liability with a combined single limit for bodily injury and property damage of \$1,000,000 per accident for incidents involving a driver from the time a driver is matched with and accepts a trip request through the TNC until the completion of the trip including the drop off of passengers at their final destination, regardless of whether the driver maintains personal insurance adequate to cover any portion of the claim and regardless of whether a driver is logged onto the TNC's internet-enabled application or digital platform at any point following the acceptance of the trip request; and

- Commercial automobile liability insurance coverage in no less than the minimum coverage amounts specified in the Texas Motor Vehicle Safety Responsibility Act as now enforced or hereinafter amended during the time that a driver for a TNC is logged in and available to provide vehicle for hire transportation services on the TNC's internet-enabled application or website, but not actively engaged in providing the service.

iii. Drivers:

- TNC drivers are required to obtain an operator's license issued by the City of Houston.
- A licensee shall not drive for more than 12 hours in any consecutive 24-hour period and no TNC permittee shall allow or cause a licensee to driver a TNC vehicle more than 12 hours in any consecutive 24-hour period.

iv. Vehicles:

- No TNC shall own or lease or provide financing for the ownership or leasing of any TNC vehicle.
- Vehicles must have at least 2 doors and meet applicable Federal Motor Vehicle Safety Standards for vehicles of its size, type and proposed use; and
- Is a coupe, sedan or light-duty vehicle, including a van, minivan, sport utility vehicle, pickup truck, hatchback or convertible.
- No vehicle permitted or subject to a certificate of registration and operated as a vehicle for hire can be operated as a TNC vehicle.
- Any vehicle that is more than seven years old or has been driven more than 150,000 actual miles can be used as a TNC vehicle.
- All TNC vehicles must be inspected at a facility designated by the City of Houston and required to pass a 20-point inspection in addition to being in a reasonable good state of repair, clean and equipped and being operated in compliance with City Code requirements.
- Upon passing the inspection, the City of Houston will issue one certification decal for the TNC vehicle. The certification decal shall be attached and displayed at the place on the TNC vehicle designate by the City of Houston.

- In addition to the certification decal, a TNC vehicle must display distinctive signage at all times it is being operated as a TNC vehicle.
- A TNC vehicle must display a consistent and distinctive emblem at all times while being used to provide vehicle for hire transportation services.

v. Other Requirements

- TNC drivers are not allowed to pick up or discharge a passenger on any portion of George Bush Intercontinental Airport or William P. Hobby Airport without proper authority.
- No TNC driver can pick up or discharge any passenger in any designated taxicab stands or loading zones.
- No TNC or TNC driver is allowed to solicit potential passengers in or near any passenger depot, hotel, airport, ship or ferry landing, bus stop or station, or on any sidewalk or street or any other place in the city or use any words or gestures that could be construed as soliciting a passenger.
- It will be unlawful for any TNC driver to respond to a street hail.
- A TNC shall provide passengers an opportunity to indicate whether they require a wheelchair accessible vehicle.

IV. **New York City, NY**

“Without commenting on any specific app, if an entity exhibits characteristics of for-hire service, such as requiring payments for point-to-point rides with the City of New York, they would need to be licensed.” (Source: New York Times, Allan Fromberg, Deputy Commissioner for Public Affairs, New York Taxicab and Limousine Commission, 3/29/2013)

Previously, New York City prosecuted a Sidecar driver for operating a ground transportation vehicle without the proper authority. Sidecar has suspended operations in NYC.

- a. **Update:** Both Uber-X and Lyft have secured for-hire base licenses to operate in NYC. Those licenses are the same licenses issued to livery providers. After the New York State Attorney General went to court to seek to prevent Lyft from operating without a license, Lyft complied by seeking and securing the proper license. Some requirements to obtain a for-hire base license in New York are:

- Commercial insurance with liability limits of \$100,000 per person, and \$300,000 per occurrence. (Coverage applies whether the app is on or off.)
- Each driver must pass a drug screen prior to licensing and once each year thereafter.
- Each base must pay a percentage of gross annual receipts into a fund to compensate drivers for work related injuries, irrespective of fault (Workers Compensation).
- Each vehicle affiliated with a base must undergo safety and emissions inspections three times per year.
- Each driver must be fingerprinted and undergo a background check prior to licensure and the Taxi and Limousine Commission (TLC) is notified immediately of any arrests by such drivers.

V. Philadelphia, PA

After continued enforcement operations in Philadelphia, Sidecar announced in June, 2013 that they had suspended operations in Philadelphia.

In Philadelphia, the definition for Rideshare applications is as follows: Rideshare applications use any person off the street and their car, neither of which are vetted; criminal and driver checked, trained, inspected, nor insurance verified by regulators. Rideshare apps have not been authorized to offer service to the riding public of Philadelphia and have been cited for running an illegal dispatch operation and operating with uncertified drivers and vehicles. As long as they continue to attempt to remain in operation in Philadelphia, they would face the same response from PPA-TLD Enforcement. (Source: James Ney, Director, Taxicab & Limousine Division, Philadelphia Parking Authority, 3/6/2013)

a. Update: Philadelphia continues to enforce against unpermitted TNC operators.

VI. San Antonio, TX – On March 21, 2013, adopted an ordinance requiring all “smartphone applications” to seek licensing from the department prior to operation within the City of San Antonio. Staff at the City of San Antonio indicates that none of the smart phone application firms has sought licensing under this new ordinance, nor would they likely qualify under their current operating platforms. An excerpt from the San Antonio ordinance provides the following:

No person for compensation or at any charge to a passenger shall by any means (including but not limited to any data or electronic communication, any telephone and cellular service, any software, any application, any internet service, and any physical presence) operate, arrange, dispatch to or solicit a Vehicle-for-hire unless permitted

under this chapter. A person is responsible for violations of this chapter by his own conduct, by the conduct of another person if acting with intent to violate this chapter he solicits, encourages, directs, aids or attempts to aid another person to violate this chapter, or by both.

(Source: City of San Antonio City Code, verified by Gary J. Gilbert, Transportation Services Manager, Ground Transportation Unit, San Antonio Police Department)

- a. **Update:** Under City Council direction, the San Antonio Public Safety Committee is currently exploring a regulatory framework regarding Transportation Network Companies.

VII. Washington, D.C. – (From 2013 Rideshare Report.)

Previously, the DC Taxicab Commission has determined that “these services and the drivers and vehicles associated with them, are public vehicle-for-hire services that must comply with District licensing laws and Commission regulations. The Chairman of the Commission stated, “We are concerned the private cars used to provide these services have only ordinary, non-commercial insurance that we believe may deny coverage to passengers in the event of an accident. The Commission will take legal action against any person knowingly flouting District law by connecting passengers to unlicensed vehicles or operators.” (Source: Ron Linton, D.C. Taxicab Commission Chairman, 4/12/2013, *original COA resource included in IATR report*).

VIII. Other Jurisdictions That Have Adopted TNC Regulations:

- a. **Baton Rouge, Louisiana:** Requires \$1,000,000 commercial insurance, TNC’s must verify driver background and vehicle inspections, Driver must be at least 21 years old, trade dress required.
- b. **Chicago, Illinois:** The City of Chicago conducts driver background checks and issues a commercial driver’s license, TNC’s must verify a 22-point vehicle inspection at a city-licensed facility (cannot be more than six model years old), \$1,000,000 commercial insurance required, trade dress required, driver must be at least 21 years old, no taxi or public transportation vehicle can be used as a TNC vehicle, trade dress required, TNC must pay \$0.10 per vehicle, per ride accepted that is not a wheelchair accessible TNC vehicle.
- c. **Colorado PUC:** Requires vehicle inspections, Driver background, \$1,000,000 commercial insurance, required trade dress, and drivers must be at least 21 years old.
- d. **Minneapolis, Minnesota:** Requires \$1,000,000 from the point the driver accepts a trip until the passenger has been safely unloaded. \$100,000 when the driver is logged in to the app., vehicle must be inspected at a City-approved facility, trade dress is required, driver must be at least 18 years old, TNC must verify driver

background, a license fee surcharge may be charged to all TNC's that do not provide wheelchair accessible services (currently \$10,000).

- e. **Seattle, Washington:** The City of Seattle conducts driver background checks and issues a commercial license, required 19-point vehicle inspection, \$300,000 commercial insurance, drivers must be at least 21 years old.
- f. **Tulsa, Oklahoma:** Requires a \$1,000,000 excess liability insurance policy that is in effect from the point the driver accepts a trip until the passenger has been safely unloaded, TNC's must ensure vehicles successfully pass an inspection, driver must be at least 21 years old and possess a valid Oklahoma drivers license, TNC must verify driver criminal and driving background, must implement a drug and alcohol testing policy and a zero tolerance drug and alcohol policy. Triggers for immediate suspension or revocation:
 - If vehicles are not operated in accordance with governing code;
 - If vehicles are operated at a rate or fare greater than specified on the TNC's digital platform or the internet;
 - If insurance is not maintained;
 - If the certificate to operate was procured by fraudulent conduct or false statement of material fact;
 - If persons, drivers, owners, operators, managers, partners, officers, employees, independent contractors, and/or agents of a TNC violate any of the provisions of the governing code or fail to maintain adequate and properly operating equipment as required;
 - For good cause, as shown by the Director; and
 - After revocation, a holder shall not be eligible to reapply for a period of two (2) years.
- g. **Virginia:** Driver background checks, driver must be at least 21 years old, \$1,000,000 commercial insurance, trade dress required.

IX. Statement from Dr. Mundy Re: Transportation Network Companies (TNCs) in Austin, TX

In addition to Austin Transportation Department staff's assemblage of interviews and information from other jurisdictions, staff reviewed the previous report prepared by Dr. Mundy for the City of Austin and received additional information subsequent to the preparation of that report. Dr. Mundy states:

“Unfortunately our 2011 Transportation Study for the City of Austin did not address transportation apps such as Sidecar. They were simply not part of the market place at that time. However, since that time we have had the opportunity to follow the activities of apps such as Sidecar and Uber and have quickly come to the conclusion that firms like Sidecar are, at a minimum dispatch companies, and in the specific case of Sidecar, and operating taxi company without city authorization. The current resolution before City Council could appear to sanction these illegal operations while the City studies the issues surrounding this type of company and the experiences of other cities. In my strongest opinion, this should not be permitted to happen. Just as in the case of electric go-cart type vehicles, which provided little to no real safety to riders, the City of Austin, by allowing Sidecar to operate, would assume tremendous liability. The City of Austin has a good ground transportation regulatory group and enjoys a very high level of call taxi service from its legal operators. Allowing Sidecar to operate would be detrimental to these existing transportation providers, your driving core, and the residents of Austin that depend upon their services.”

Working Group Formation:

I. June 11, 2014, TNC Planning Meeting:

- a. The Austin Transportation Department (ATD) hosted a planning meeting in order to introduce the working group process to the community and interested stakeholders. The process included meeting every other week to discuss a variety of topics to be included in a pilot program, with the intent to bring back a recommendation to the Mayor and City Council by late November, early December 2014.
- b. ATD took suggestions at the meeting and via email for interested stakeholders who should serve on the working group. ATD formed the working group based on the City Council resolution, diversity of representatives on the working group and subject matter experts.
- c. Working Group members include:

First Name	Last Name	Company/Affiliation
Joan	Khabele	Austin Cab Co.
Daniel	Ejigu	Lonestar Cab
Ed	Kargbo	Yellow Cab
Dave	Passmore	Taxi Drivers Association of Austin
Ali	Dawoodally	Austin Cab Driver
Scott	Dunaway	Lyft/Monument
April	Mims	Lyft
Adam	Goldman	Uber/Capitol
Chris	Johnson	Uber
Meredith	Highsmith	UTC TNC Sub.
Boone	Blocker	UTC TNC Sub.
Eric	Goff	TNC Customer/AURA Communications
Billy	Carter	Carter Transportation Service
David	Wittie	ADAPT
Joe	Woods	Property Casualty Insurers Assn. of Am.
David	Emerick	JPMorgan Chase
Jeff	Kirk	University of Houston Law Center, Austin resident
Kaitlyn	Clark	University of Texas, undergraduate student
Kara	Kockelman	University of Texas, Professor
Donna	Chen	Dr. Kockelman doctoral student
Lauren	Albright	Carma
Thomas	Butler	Downtown Austin Alliance
Kris	Bailey	Go Green
Carlton	Thomas	City of Austin, Transportation
Gordon	Derr	City of Austin, Transportation
Sam	Alexander	City of Austin, Transportation
Larry	Schooler	City of Austin, Public Information
Angela	Rodriguez	City of Austin, Law Department
Xavier	Wan	City of Austin, Public Information
Timothy	Pruett	City of Austin, Austin Police Department
Perla	Compton	City of Austin, Aviation
Emily	Smith	City of Austin, Public Information
Lizzy	Marrero	City of Austin, Public Information

Working Group Meetings:

The below meetings are organized by meeting date, with topics discussed under the meeting dates.

I. July 14, 2014, Driver and passenger safety, vehicle requirements

- a. Driver background checks, training programs, possible drug and alcohol tests (some questioned the need of drug and alcohol tests since taxis do not current have them).
- b. One possibility would be for the TNCs to be responsible for driver/vehicle verification process, the City's role would be is issue the TNC permit and audit records for safety purposes. From the TNCs perspective, they were amenable to this process because essentially it is what they claim to do now, with one extra step of having the driver come to ATD to get his/her permit.
- c. Vehicle inspections would either include an inspection completed an approved facility (currently the City uses Groovy Lube), or require a state inspection with additions including a fire extinguisher and first aid kit.

II. August 1, 2014, Data requirements

- a. The Transportation Department would like TNCs to submit data to the department, similar to data currently collected on the taxi industry, to help the City gauge the demand and to measure if that demand is being met. The TNCs stated that they consider this information proprietary; however, the City currently collects this data from other companies and believe it is integral to best managing Austin's transportation demands.

III. August 11, 2014, Insurance requirements

- a. All representatives and companies involved agree that insurance coverage is necessary to protect both the drivers and passengers when using TNCs. Currently there are numerous products in development in the insurance market that could meet the unique demands of TNCs. In the meantime, one possibility is a tiered system where different levels of coverage are applicable based on these three circumstances:
 - i. TNC driver has the app open and is looking for passengers;
 - ii. TNC driver has accepted a passenger;
 - iii. TNC driver has a passenger in the vehicle.
- b. The City's interest in proper insurance coverage is to ensure that if there is an incident, the driver and passengers are clearly covered by an insurance policy, and that prior to getting in the vehicle they are aware of the risks they are

assuming and who's insurance would be applicable should there be an incident.

IV. August 26, 2014, Company requirements-accessibility.

- a. How TNCs will meet the needs of Austin's residents who require accessible service is an ongoing point of discussion. The TNCs have stated that the companies are working on accessible services; however, due to current pending litigation between ADAPT and numerous companies in the Working Group, the discussion was limited.
- b. There will be an accessibility requirement recommended in the pilot program.

V. September 10, 2014, Company financial requirements-fine structure, taxing accountability, driver income, rate structure, cost of administrative and enforcement activities. Additional topics included fleet size, trade dress, complaint systems and lost and found systems.

- a. Representatives from both Uber and Lyft were able to provide more detailed information on their accessible services in other cities, in particular pointing to Chicago and the California Public Utilities Commission models. In Chicago Uber has an option on the application to specifically request an accessible ride. Both companies point to the California PUC as a potential model in Austin. Both companies stated the models they use are different in every city, depending on what accessible services are already available in the city.
- b. It was discussed that in order to determine if there should be a max TNC fleet size, the City would need data to see what the size is currently. For the time being, there was not a recommendation to create a cap on fleet size until the TNCs are legally operating for a while, and then only if necessary.
- c. There was much discussion about the potential need for a local presence for all TNC companies to handle issues such as complaints and lost and found items.
- d. In regards to trade dress, or marking on the TNC vehicles, there was an understanding by most of the group members why the companies didn't want permanent markings on the vehicles since they are peoples' personal vehicles. However, in other cities the companies have provided drivers with temporary markings for the vehicles to help identify TNCs; markings range from magnetic signs to window clings. There is an interest on behalf of the City to requiring vehicles markings so passengers can identify the vehicles, enforcement officers can identify the vehicles, and should there be an accident the responding emergency crew will know to ask the driver if he/she was operating as a TNC for insurance purposes.

VI. September 22, 2014, Final pilot program components presented to group by ATD, Q&A on upcoming TNC ordinance

Transportation Network Company (TNC) Working Group Progress

September 24, 2014

- a. This meeting was originally slated to discuss surge pricing, administrative costs and the preliminary draft recommendations from staff for the pilot program. However, given the recent development of a ordinance regulating TNCs that will be considered at the September 25, 2014 Council Meeting, the group opted to discuss that ordinance. ATD staff invited Council Member Riley's staff to attend the meeting to hear feedback and answer questions.
- b. The group also had an opportunity to review staff's draft recommendations and provide feedback.

VII. October 8 and October 24, 2014, Review staff pilot program recommendations

* future meeting

Anticipated Timeline:

ATD anticipates completing the pilot program recommendations mid-November, but will work to complete them as soon as possible.

Transportation Network Company (TNC) Pilot Program Recommended Guidelines

September 18, 2014

Company Requirements:

- I. A Transportation Network Company (TNC) is a company that provides pre-arranged transportation services for compensation using an online-enabled application or platform to connect drivers using their personal vehicles with passengers.
- II. Licensing:
 - a. It shall be unlawful for a TNC to operate within the corporate limits of the city without the proper authority. A TNC company permit will be required.
 - b. In order to facilitate the administration and enforcement of the pilot program, a fee will be imposed on all approved TNCs.
 - c. Permits issued will be for a term of one year, renewable annually.
 - d. Permits issued may not be transferred or otherwise assigned.
 - e. To secure a TNC company permit, an application shall be submitted pursuant to §13-2-161.
 - f. A TNC must have a local point of contact to be named on the permit application.
 - g. The TNC must maintain a local presence including, but not limited to, a website and phone number.
- III. Insurance:
 - a. Each permittee and TNC driver shall comply with all applicable insurance requirements mandated by federal, State of Texas, and city laws.
 - b. Each applicant for the issuance or renewal of a permit shall provide proof that the applicant has commercial automobile liability insurance issued by a company licensed to operate in the State of Texas and by an agent licensed by the State of Texas. The policy must include the following; bodily injury and property damage coverage; and owned, non-owned and hired vehicle coverage. Applicant must furnish a certificate of insurance for the policy to the department.
 - c. The policy required shall be available to cover claims regardless of whether the driver maintains insurance adequate to cover any portion of the claim and shall be maintained in force at all times that the TNC offers or provides TNC service.

- d. Any permittee shall provide proof of insurance to each TNC driver before the driver begins providing service and for as long as the driver remains available to provide service.
- e. If any insurer desires to be released from any insurance policy filed under this section, the TNC must give written notice to the Director of the Austin Transportation Department at least 30 days before release from liability occurs. The TNC shall furnish evidence of new insurance obtained before the expiration of the policy.
- f. Insurance shall be provided in stages of use for the TNC:

- i. *Stages of Activity

- Stage 1 – TNC driver logged into application, available for ride request

- Stage 2 – Accepted ride request, in route to requestor (no passengers loaded)

- Stage 3 – Passenger(s) loaded, until the completion of the trip (including the drop off of passengers at their final destination.

- g. The policy required for TNC's must, at a minimum, provide coverage for:

- *Stage 1

- 1. Bodily injury of \$100,000 per person and \$300,000 per accident
 - 2. Property damage of \$25,000 per accident; and
 - 3. Personal injury protection of \$2,500 per passenger.

- This commercial coverage may be provided by the TNC, the TNC driver, or both.

- *Stage 2

- Commercial automobile liability insurance with a combined single limit for bodily injury and property damage of \$1,000,000 per accident covering liability resulting from any occurrence arising out of or caused by the operation of a TNC vehicle.

- This commercial coverage shall be provided by the TNC

- *Stage 3

- Commercial automobile liability insurance with a combined single limit for bodily injury and property damage of \$1,000,000 per accident covering liability

resulting from any occurrence arising out of or caused by the operation of a TNC vehicle.

This commercial coverage shall be provided by the TNC

IV. Reporting Requirements:

- a. The following data shall be reported to the Director of the Austin Transportation Department by the TNC for the purpose of determining the success of the pilot program. Provided data will be used to identify transportation needs that are currently not being met, as well as to ensure there is equitable service across all communities.

The following data shall be in recorded in four-hour blocks and reported monthly:

- Number of requests for service
- Number of trips requested but not serviced, by zip code
- Number of vehicles active/logged in
- Pick up/drop off by zip codes
- Accessible rides requested and serviced
- Accessible rides requested and not serviced

The following data shall be in recorded daily and reported monthly:

- Driver hours logged in to application (12 hour max per driver)

The following data shall be recorded and reported monthly:

- Number of passengers transported
- Revenue generated

Failure to provide required data within 15 days of last day of the preceding month will cause a TNC's permit to be suspended.

V. Other Requirements:

- a. TNC's shall display their rate of fare on their website, application, or digital platform used by the permittee to connect drivers with passengers and upon termination of the trip, provide a receipt to the passenger.
 - i. If rates of fair are dependent on time traveled, there should be a fare estimate for passengers to view prior to accepting a ride.

- b. The City has the right to inspect individual ground transportation vehicles, including TNCs and taxicabs. Enforcement entities secure the ability to schedule trips for the purpose of inspections and audits. The companies/drivers may not deny the trips based on the requestor, companies cannot block City departments out of the applications, and enforcing agencies will not be required to pay for the ride.
- c. Airport drop/off and pick up: this section will be added after ABIA's internal review of their recommended policy regarding TNCs.
- d. In addition to inspection decal, all TNC vehicles shall display a consistent and distinctive emblem (commonly referred to as "Trade Dress") at all times the vehicle is being used to provide TNC services. The emblem may be temporary, but must be applied to vehicle in order to operate. The Director of the Austin Transportation Department is authorized to specify, by rule, the manner of display, method of issuance, and to approve the final design and contents of such emblem.
- e. Any terms of conditions in the agreement between the permittee and drivers, or between the permittee and any passenger, that would act as a waiver of the permittee's liability to the passenger or to the public, are declared to be contrary to public policy, null, void and unenforceable.
- f. TNC drivers will only accept rides through the application platform, they will not be permitted to accept hailed rides.
- g. Accessible Service -
 - i. The Austin Transportation Department shall establish an accessibility fund. In addition to any license issuance or renewal fees, taxicabs and TNCs shall pay \$__ (need data to determine what amount would support an accessibility fund to adequately provide services) per vehicle per ride provided to the accessibility fund for each vehicle registered with the permittee which is not a wheelchair accessible.
 - 1. The term "accessibility fund" means a fund used to improve the services of taxicabs and transportation network vehicles for people with disabilities. Uses of this fund include, but are not limited to reimbursement for costs associated with converting or purchasing a vehicle to be used as a taxicab or transportation network vehicle that is fully wheelchair accessible by ramp or lift. The maximum amount of reimbursement per taxicab vehicle from the fund, and the conditions of reimbursement and the maximum amount of reimbursement per transportation network vehicles from the fund shall be established by rules and ordinances.

Driver Requirements:

- I. TNCs shall conduct a certification of each driver wishing to provide service with the TNC. The certification should include:
 - a. Driver Background check
 - i. The criminal background check shall be national in scope and prevent any person who has been convicted, within the past seven years, of driving under the influence of drugs or alcohol, or who has been convicted at any time for fraud, sexual offenses, use of a motor vehicle to commit a felony, gun related violations, resisting/evading arrest, reckless driving, a crime involving property damage, and/or theft, acts of violence, or acts of terror from driving for the TNC.
 - b. Driver's driving record
 - i. The driver history check shall prevent anyone with more than three moving violations or anyone charged with driving without insurance or a suspended license or a major violation within the three-year period prior to the check from driving for the TNC.
 - c. No tolerance drug and alcohol policy
 - d. Driver training program
 - e. Vehicle Inspection completion
 - f. A valid, current driver's license
 - g. Driver must be 21 years old, or older
- II. Once a driver has satisfied certification requirements, the TNC shall issue a permit containing a photo of the driver and identifying vehicle information (license plate number) which the driver is required to have in the vehicle when operating as a TNC.
 - a. While operating a TNC vehicle, the driver shall display the operating permit in a manner approved by the Director of the Austin Transportation Department.
- III. TNC shall submit a weekly report to the department detailing all drivers affiliated with the TNC. The report should contain information on all drivers on-boarded as well as all drivers no longer eligible to operate on the TNC's platform. Included in the weekly reports will be a signed affidavit from the TNC confirming that each of the drivers meets the standards to operate as a TNC in Austin, TX.
 - a. TNCs will be responsible for maintaining these employment records.

- b. ATD will audit the TNCs records to ensure compliance. If waivers are needed for ATD to audit drivers' background checks, TNCs will collect waiver information from drivers when they sign up on the platform.
- IV. While operating a TNC vehicle, the driver shall display approved trade dress as required by this chapter.
- V. Drivers will not operate as ground transportation providers for more than 12 hours consecutively in a 24 hour period.

Vehicle Requirements:

Before operating a vehicle for TNC service, the vehicle must successfully pass a 20-point inspection by a mechanic certified by the State of Texas to perform state inspections. Inspections shall include, but not be limited to the following items:

1. Emergency brakes;
2. Foot brakes;
3. Steering mechanism;
4. Windshield;
5. Rear window and other glass;
6. Windshield wipers;
7. Headlights;
8. Tail lights;
9. Turn indicator lights;
10. Stop lights;
11. Front seat adjustment mechanism;
12. Doors (open, close, lock);
13. Horn;
14. Speedometer;
15. Bumpers;
16. Muffler and exhaust system;
17. Condition of tires, including tread depth;

18. Interior and exterior rear view mirrors;
 19. Safety belts for drivers and passengers;
 20. Fire extinguisher;
- I. Vehicle must conform to state safety standards and have a current State vehicle inspection and registration stickers
 - II. The vehicle must be in condition to provide dependable and safe mechanical operation.
 - III. The vehicle must have a physical barrier securely anchored between the passenger and luggage compartments if the vehicle has no trunk compartment.
 - IV. Missing, broken, or significantly damaged interior parts that affect the operation or safety of the vehicle must be repaired or replaced.

Pilot Program Duration:

- I. The duration of the pilot program will be for one year, and staff reserves the right to make any necessary modifications during the pilot program.
- II. There will not be a sunset on the pilot program; if after one year it is determined the pilot program should be discontinued, it will require City Council action and applicable City Code amendments.

Taxicab Related Modifications:

- I. Permit Allocation
 - a. Initiate an allocation of taxi franchise permits equal to ten percent (10%) of the currently allocated taxi franchise permits divided equally among all franchises. This shall be an annual allocation until taxicab companies can meet all performance criteria measure that will be detailed in the 2015 franchise agreements.
- II. Driver Requirements
 - a. Driver requirements should mirror TNC driver requirements. Taxicab companies will be responsible for ensuring their drivers pass the background check, driver history check, complete an in-house training program, are at least 21 years of age, drive a vehicle that pass the inspection standards and are in compliance with the drug and alcohol policy. Taxicab companies will also be required to submit a signed affidavit stating their drivers meet the requirements and will be subject to audits to ensure compliance.

- III. Inspection Standards – Motorized ground transportation service vehicle (excluding electric low-speed vehicles) inspection standards should mirror TNC inspection requirements. The companies will be responsible for the inspections and will attest the inspections are valid in the aforementioned signed affidavit.
- IV. Taxicab companies will contribute to the accessibility fund in the same manner as TNCs.
- V. Permit Usage-24 hour capabilities
 - a. Taxicab companies will have the ability to utilize vehicle permits 24 hours a day if they are able to prove capability of administering split use of one permit.
 - i. i.e. Two vehicles can operate on the same permit, just not at the same time.