

File No. 160759

Committee Item No. \_\_\_\_\_

Board Item No. 72

## COMMITTEE/BOARD OF SUPERVISORS

### AGENDA PACKET CONTENTS LIST

Committee: \_\_\_\_\_

Date: \_\_\_\_\_

Board of Supervisors Meeting

Date: July 12, 2016

#### Cmte Board

- |                          |                                     |  |
|--------------------------|-------------------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/>            | Motion                                       |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Resolution                                   |
| <input type="checkbox"/> | <input type="checkbox"/>            | Ordinance                                    |
| <input type="checkbox"/> | <input type="checkbox"/>            | Legislative Digest                           |
| <input type="checkbox"/> | <input type="checkbox"/>            | Budget and Legislative Analyst Report        |
| <input type="checkbox"/> | <input type="checkbox"/>            | Youth Commission Report                      |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Introduction Form                            |
| <input type="checkbox"/> | <input type="checkbox"/>            | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/>            | MOU  |
| <input type="checkbox"/> | <input type="checkbox"/>            | Grant Information Form                       |
| <input type="checkbox"/> | <input type="checkbox"/>            | Grant Budget                                 |
| <input type="checkbox"/> | <input type="checkbox"/>            | Subcontract Budget                           |
| <input type="checkbox"/> | <input type="checkbox"/>            | Contract/Agreement                           |
| <input type="checkbox"/> | <input type="checkbox"/>            | Form 126 – Ethics Commission                 |
| <input type="checkbox"/> | <input type="checkbox"/>            | Award Letter                                 |
| <input type="checkbox"/> | <input type="checkbox"/>            | Application                                  |
| <input type="checkbox"/> | <input type="checkbox"/>            | Public Correspondence                        |

#### OTHER

<input type="checkbox"/>	<input type="checkbox"/>	_____
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Prepared by: Brent Jalipa

Date: July 7, 2016

Prepared by: \_\_\_\_\_

Date: \_\_\_\_\_

1 [Urging the California Public Utilities Commission to Adopt Regulations Requiring Fingerprint-  
2 Based Criminal Background Checks of Transportation Network Company Drivers]

3 **Resolution urging the California Public Utilities Commission to adopt new regulations**  
4 **of Transportation Network Companies that would require the same fingerprint-based**  
5 **criminal background checks currently required of traditional taxi cab companies, and**  
6 **supporting the California Public Utilities Commission’s solicitation for comment**  
7 **regarding the current method of criminal background checks for Transportation**  
8 **Network Companies.**

9  
10 WHEREAS, On June 22, 2016, the California Public Utilities Commission (CPUC)  
11 opened solicitation for comments regarding whether the current method of conducting criminal  
12 background checks for Transportation Network Company (TNC) drivers is as effective as  
13 fingerprint-based criminal background checks; and

14 WHEREAS, The CPUC’s current inquiry is in furtherance of an its Order Instituting  
15 Rulemaking on Regulations Relating to Passenger Carriers, Ridesharing, and New Online-  
16 Enabled Transportation Services, which was issued in December 2012; and

17 WHEREAS, The CPUC has stated that among its goals is “to assess public safety  
18 risks, and to ensure that the safety of the public is not compromised” in the operation of so-  
19 called “Transportation Network Companies,” which include for-hire service providers Uber,  
20 Lyft, and other such companies, and to ensure that the services of a regulated utility are  
21 provided in a safe manner; and

22 WHEREAS, Taxi regulators in the most populous parts of California, including San  
23 Francisco, currently require drivers to undergo fingerprint-based criminal background checks  
24 processed by the California Department of Justice (CALDOJ), through a technology called  
25

1 "Live Scan," which uses fingerprint images to automatically search government criminal  
2 record databases maintained by the CALDOJ and the FBI; and

3 WHEREAS, Unlike the regulations governing taxi cabs, there is no current requirement  
4 for prospective TNC drivers to undergo fingerprint-based criminal background checks, even  
5 though fingerprint-based criminal background checks are widely considered by law  
6 enforcement to be the gold standard for screenings because they can accurately identify  
7 applicants who use aliases or lie about their criminal records; and

8 WHEREAS, Because of the unique identifying characteristics of fingerprints, the Live  
9 Scan process provides concrete assurance that the person whose criminal history has been  
10 run is, in fact, the applicant who seeks to drive a taxi cab; and

11 WHEREAS, Previous instances of faulty background checks by TNCs in San Francisco  
12 have resulted in those TNCs approving drivers with prior convictions for driving under the  
13 influence, felony drug distribution, multiple instances of false identities being used to obtain  
14 approval to drive a car, and; in one instance, a prior reckless driving conviction that was only  
15 revealed after the driver allegedly killed a girl in a San Francisco crosswalk; and

16 WHEREAS, A consumer-protection lawsuit jointly-filed in 2015 by Los Angeles and  
17 San Francisco District Attorneys against Uber identified 25 drivers with prior convictions for  
18 murder, assault, driving under the influence, identity theft, and other offenses, who would  
19 have been precluded from driving for TNCs had their conviction history been revealed through  
20 a fingerprint-based criminal background check; and

21 WHEREAS, San Francisco's and Los Angeles' top prosecutors have stated, "The  
22 private background check companies employed by Uber do not have access to [California  
23 Department of Justice] and federal databases of criminal history repositories," and, "The  
24 background check companies employed by Uber search for criminal convictions in  
25 commercial databases that do not index their records by unique biometric identifiers;" and

1           WHEREAS, The City and County of San Francisco recognizes that the requirement for  
2 fingerprint-based criminal background checks for traditional taxi cab drivers and the  
3 comparative absence of that requirement for TNC drivers also contributes to a grossly  
4 unequal regulatory framework; and

5           WHEREAS, The CPUC does not have jurisdiction over and cannot regulate traditional  
6 taxi cab companies, but has nevertheless asserted jurisdiction over the regulation of TNCs,  
7 thereby preempting and preventing the City and County of San Francisco from regulating  
8 those TNCs; and

9           WHEREAS, By preempting the City and County of San Francisco from regulating  
10 TNCs, the CPUC has facilitated the development of a two-tiered and anti-competitive playing  
11 field for traditional taxi cab services and TNCs, respectively; and

12           WHEREAS, The City and County of San Francisco recognizes that traditional taxi  
13 companies are subject to stricter regulation than TNCs – including limits on the number of  
14 taxis on the road, regulation of the prices that taxis can charge passengers, requirements that  
15 taxi cab drivers obtain commercial licenses and complete a certified driver training course,  
16 mandatory compliance with the Americans with Disabilities Act, and for the provision of basic  
17 benefits like workers' compensation for all taxi drivers on the road – which regulations do not  
18 apply to TNCs; and

19           WHEREAS, The City and County of San Francisco further recognizes the merit in the  
20 aforementioned regulations and other non-mentioned regulations of traditional taxi cab service  
21 providers, and also recognizes the importance of creating a level regulatory playing field for  
22 traditional taxi cab companies and TNCs that incorporates existing responsible regulations of  
23 the traditional taxi cab industry; and

24           WHEREAS, Supporting the CPUC's current proposal for requiring fingerprint-based  
25 criminal background checks furthers the dual goals of ensuring thorough and accurate

1 criminal background checks for TNC drivers, on the one hand, and eliminating the two-tiered  
2 regulatory system for traditional taxi cab services and TNCs, on the other; now, therefore, be  
3 it

4         RESOLVED, That the City and County of San Francisco appreciates and hereby  
5 responds to the California Public Utilities Commission's solicitation for comment regarding  
6 whether the current method of conducting criminal background checks for TNC drivers is as  
7 effective as fingerprint-based criminal background checks; and, be it

8         FURTHER RESOLVED, That the City and County of San Francisco urges the  
9 California Public Utilities Commission to adopt regulations that would require TNC drivers to  
10 submit to the same fingerprint-based criminal background checks that are currently required  
11 of traditional taxi cab drivers.

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# Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp  
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion, or Charter Amendment)
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor [ ] inquires"
- 5. City Attorney request.
- 6. Call File No. [ ] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. [ ]
- 9. Reactivate File No. [ ]
- 10. Question(s) submitted for Mayoral Appearance before the BOS on [ ]

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission       Youth Commission       Ethics Commission
- Planning Commission       Building Inspection Commission

**Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative Form.**

**Sponsor(s):**

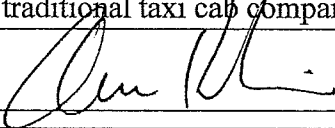
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**Subject:**

Urging the California Public Utilities Commission to Adopt Regulations Requiring Fingerprint-Based Criminal Background Checks of TNC Drivers

**The text is listed below or attached:**

Resolution supporting the California Public Utilities Commission's solicitation for comment regarding the current method of criminal background checks for Transportation Network Companies and urging the California Public Utilities Commission to adopt new regulations of Transportation Network Companies that would require the same fingerprint-based criminal background checks currently required of traditional taxi cab companies.

Signature of Sponsoring Supervisor: 

For Clerk's Use Only: