

1 [Metropolitan Transportation Commission – Strengthen Provisions of Personal Information of
2 the Clipper Card Program]

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4 **Resolution urging the Metropolitan Transportation Commission and the State**
5 **Legislature to strengthen the privacy provisions of personal information of the Clipper**
6 **Card Program.**

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8 WHEREAS, The Clipper card is an electronic fare payment card for Bay Area public
9 transit agencies that is operated by the Metropolitan Transportation Commission (MTC); and

10 WHEREAS, As of December 2011, there are more than one million active Clipper
11 cards; and

12 WHEREAS, The MTC tracks the transit history of Clipper card users and links it to
13 users' personally identifiable information, such as their name, address, credit card number,
14 and other contact information; and

15 WHEREAS, The Clipper Privacy Policy allows the MTC to maintain all personally
16 identifiable information indefinitely for active Clipper accounts and for up to seven years after
17 accounts are closed or terminated; and

18 WHEREAS, The Clipper Privacy Policy allows the MTC to share personally identifiable
19 information with participating transit agencies, third-party contractors, and the Better Business
20 Bureau; and

21 WHEREAS, Clipper cards store their users' entire transit history as unencrypted data;
22 and

23 WHEREAS, By comparison, the ORCA card, which is used for public transit in the
24 Puget Sound area, preserves only the ten most recent trip transactions for the card; and

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1 WHEREAS, A recently designed smartphone application provides the ability to scan
2 any Clipper card and obtain the card's stored transit usage history; and

3 WHEREAS, This smartphone application can be used without the Clipper card owner's
4 permission or knowledge simply by placing the smartphone near the Clipper card; and

5 WHEREAS, This public availability of Clipper card users' transit history creates a
6 potential public safety risk by exposing users' regular travel patterns; and

7 WHEREAS, This public availability of Clipper users' transit history potentially threatens
8 the constitutional protections of anonymous speech and associational privacy by revealing
9 users' transit usage near First Amendment activities; and

10 WHEREAS, The Clipper card uses the MIFARE DESFire microchip, which was
11 discontinued as of December 31, 2011, and has been replaced by the MIFARE DESFire EV1
12 that offers additional security enhancements; and

13 WHEREAS, NXP Semiconductor, the manufacturer of the MIFARE DESFire, has
14 acknowledged that it contains a potential security vulnerability and recommends that
15 customers migrate to the MIFARE DESFire EV1; and

16 WHEREAS, SB 1268, authored by State Senator Joe Simitian and signed into law on
17 September 29, 2010, added Chapter 8 to Division 17 of the California Street and Highways
18 Code to limit transportation agencies ability to use, store, and retain personally identifiable
19 information obtained through electronic toll collection systems; and

20 WHEREAS, SB 1268 proscribes stricter limits on transportation agencies ability to
21 retain personally identifiable information than Clipper's current privacy policy; now, therefore,
22 be it

23 RESOLVED, That the Board of Supervisors urges the members of the California State
24 Assembly and Senate from San Francisco to legislate safeguards for the usage of personally
25 identifiable information by transit agencies; and, be it

1 FURTHER RESOLVED, That the Board of Supervisors urges the evaluate the length of
2 time for which users' users' transit usage history information must be retained for legal or
3 operational purposes and to revise the Clipper Privacy Policy to purge such information after
4 that time (but after no later than four years and six months, and to purge all personally
5 identifiable information as soon as possible after accounts are closed or terminated; and, be it

6 FURTHER RESOLVED, That the Board of Supervisors urges the MTC to revise the
7 Clipper Privacy Policy to create stricter limits on the sharing of personally identifiable
8 information with third parties and participating transit agencies; and, be it

9 FURTHER RESOLVED, That the Board of Supervisors urges the MTC to explore the
10 feasibility of minimizing the amount of data stored on Clipper cards, encrypting the data, or
11 providing the ability for users to clear the transit data stored on their cards; and, be it

12 FURTHER RESOLVED, That the Board of Supervisors asks the MTC to report on its
13 plans to phase out the use of the MIFARE DESFire chip in Clipper cards; and, be it

14 FURTHER RESOLVED, That the Board of Supervisors directs the Clerk of the Board
15 to transmit copies of this resolution to the MTC and the members of the California State
16 Legislature from San Francisco with a request to take all action necessary to achieve the
17 objectives of this resolution.

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