

1 [Urging the California Public Utilities Commission to Adopt Conviction History Regulations In
2 Furtherance of a Level Regulatory Playing Field And In Compliance With San Francisco's
3 2014 Fair Chance Ordinance]

4 **Resolution urging the California Public Utilities Commission to adopt regulations of**
5 **Transportation Network Companies that comply with San Francisco's 2014 Fair Chance**
6 **Ordinance, recognizing the importance of a level regulatory playing field between**
7 **Transportation Network Companies and traditional taxi cab companies, and supporting**
8 **the California Public Utilities Commission's solicitation for comment regarding the**
9 **current method of criminal background checks for Transportation Network Companies.**

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

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

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

23 WHEREAS, The CPUC does not have jurisdiction over and cannot regulate traditional
24 taxi cab companies, but has nevertheless asserted jurisdiction over the regulation of TNCs,

1 thereby preempting and preventing the City and County of San Francisco from regulating
2 those TNCs; and

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

6 WHEREAS, The City and County of San Francisco recognizes that traditional taxi
7 companies are subject to stricter regulation than TNCs – including limits on the number of
8 taxis on the road, regulation of the prices that taxis can charge passengers, requirements that
9 taxi cab drivers complete a certified driver training course to operate vehicles that have
10 commercial license plates and 24/7 commercial insurance, mandatory participation in the
11 SFMTA’s Paratransit Program, and for the provision of basic benefits like workers’
12 compensation for all employee taxi drivers on the road – which regulations do not apply to
13 TNCs; and

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

19 WHEREAS, Taxi regulators in the most populous parts of California, including San
20 Francisco, currently require drivers to undergo fingerprint-based criminal background checks
21 processed by the California Department of Justice (CALDOJ), utilizing fingerprint images to
22 automatically search government criminal record databases maintained by the CALDOJ and
23 the FBI; and

24 WHEREAS, Unlike the regulations governing taxi cabs, there is no current requirement
25 for prospective TNC drivers to undergo fingerprint-based criminal background checks; and

1 WHEREAS, Irrespective of the relative accuracy of various criminal background check
2 procedures, the City and County of San Francisco in 2014 recognized that individuals in San
3 Francisco and across the country are often unnecessarily plagued by old or minor arrest or
4 conviction records that discourage them from applying for jobs that would automatically
5 exclude them from consideration upon disclosure of their criminal history; and

6 WHEREAS, In recognition of the health and safety benefits to increasing access to
7 employment for people with arrest or conviction records, in order for them to reintegrate into
8 their communities, in 2014 the City and County of San Francisco adopted the “Fair Chance
9 Ordinance,” which limits an employer’s use of any criminal history information in the hiring
10 process and specifically prohibits any consideration of arrests not leading to conviction,
11 participation in diversion or deferral of judgment programs, expunged convictions, juvenile
12 convictions, convictions more than 7 years old, and criminal offenses other than felonies or
13 misdemeanors; and

14 WHEREAS, The 2014 Fair Chance Ordinance also restricts consideration of prior
15 conviction histories to those convictions that directly relate to the job in question and which
16 have a specific negative bearing on the person’s ability to perform the duties of the job in
17 question; and

18 WHEREAS, Recognizing that fingerprint-based background checks, without sufficient
19 and enforceable controls on the use of information, and without reliable means of ensuring
20 that information contained in law enforcement databases is complete and accurate, can have
21 a discriminatory impact on communities of color; and

22 WHEREAS, The City and County of San Francisco nevertheless recognizes that the
23 disparity between background checks for traditional taxi cab drivers and TNC drivers
24 contributes to a grossly unequal regulatory framework; and

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1 WHEREAS, The CPUC's current solicitation for comment presents an opportunity for
2 advancing a criminal background check process that advances the safety of TNC passengers
3 as well as the public health and safety of prospective drivers, including those with unrelated
4 prior conviction histories seeking to reintegrate into society while eliminating the two-tiered
5 regulatory system for traditional taxi cab services and TNCs; now, therefore, be it

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

10 FURTHER RESOLVED, Irrespective of the relative accuracy of various means of
11 conducting criminal background checks, that the City and County of San Francisco urges the
12 California Public Utilities Commission to adopt regulations that would require TNC drivers to
13 submit to the same criminal background checks that are required of traditional taxi cab drivers
14 and to seek other means of creating a level regulatory playing field between traditional taxi
15 cab companies and TNCs; and, be it

16 FURTHER RESOLVED, That the use of any information obtained through a criminal
17 background check, regardless of form, should be restricted in accordance with the 2014 Fair
18 Chance Ordinance, which, among other restrictions, prohibits consideration of arrests not
19 leading to a conviction, participation in or completion of diversion or deferral of judgment
20 programs, expunged or inoperative convictions, juvenile convictions, convictions over 7 years
21 old, criminal offenses other than felonies or misdemeanors, and convictions not directly-
22 related to the employment in question.