

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.**

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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
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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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