

1 [Urging the District Attorney to Investigate Transportation Network Companies' Use of
2 "Greyball" Technology as Potential Obstruction of Justice]

3 **Resolution urging the San Francisco District Attorney's Office to initiate an**
4 **investigation into whether the use of "greyball" technology by Transportation Network**
5 **Companies constitutes an intentional obstruction of justice.**

6
7 WHEREAS, For years, TNCs—namely, Uber—have engaged in a worldwide program to
8 deceive and evade law enforcement and other municipal, state and federal authorities in
9 markets where its low-cost ride-hailing service was resisted by law enforcement or, in some
10 instances, had been banned; and

11 WHEREAS, Uber in particular developed and employed a tool called "Greyball," which
12 uses data collected from the Uber app and other sources to identify and circumvent law
13 enforcement and other authorities trying to clamp down on the ride-hailing service; and

14 WHEREAS, Greyball was part of a larger program called "VTOS," short for "violation of
15 terms of service," which Uber created to deceive law enforcement and other authorities who
16 oppose Uber's operation in cities or are charged with enforcing regulations instituted by
17 government authorities to preserve the public's health and safety; and

18 WHEREAS, Greyball allows Uber to "tag" or otherwise label law enforcement and other
19 authorities in the app and deliver to them a fake version of the app, populated with ghost cars,
20 to effectively preclude their use of the for-profit service; and

21 WHEREAS, By precluding law enforcement and other authorities from using the
22 program, Uber intentionally and successfully avoided being subject to local and state laws
23 aimed at regulating Transportation Network Companies, specifically, and local and state laws
24 aimed at regulating vehicular use, in general; and

1 WHEREAS, In defending their use of the technology, spokespeople for Uber have
2 argued that it is the company’s right and obligation to protect their drivers from harm, even if
3 that harm is in the form of traffic citations or other enforcement of the vehicular traffic code;
4 and

5 WHEREAS, Use of Greyball and similar technologies hinder the discovery,
6 apprehension, conviction and punishment of individuals or entities that have committed
7 crimes, which may rise to the level of an intentional obstruction of justice; and

8 WHEREAS, In addition to intentionally obstructing justice, use of Greyball and similar
9 technologies may constitute a violation of the federal Computer Fraud and Abuse Act, which
10 is a criminal law targeting various computer-related acts, including the intentional access of
11 cellphones without authorization or in excess of express authorization; and

12 WHEREAS, Since settling a lawsuit out of court in 2016 which challenged Uber’s
13 classification of its drivers as independent contractors, Uber has been hit with a \$20 million
14 settlement over claims it deceived drivers about their prospective earnings and a lawsuit by
15 one of its competitors alleging theft of trade secrets; and

16 WHEREAS, Recent legal disputes and a series of other recent controversies—including
17 allegations that Uber routinely ignores sexual harassment claims and a video of Uber CEO
18 Travis Kalanick berating one of the company’s drivers, who confronted Kalanick about steep
19 cuts in Uber’s rates—underscore the lengths to which Uber will go to undercut its competitors
20 and stretch the boundaries of corporate responsibility; now, therefore, be it

21 RESOLVED, That the San Francisco Board of Supervisors urges the San Francisco
22 District Attorney’s Office to initiate an investigation into whether the use of Greyball
23 technology by Uber and other potentially similar programs by other TNCs constitute an
24 obstruction of justice or violation of any other local, state or federal laws aimed at regulating
25 the Transportation Network Company industry or unfair business practices, more broadly.