

1 [Urging the Municipal Transportation Agency to Issue Permits to California State Assembly Bill
2 No. 5-Compliant Entities Seeking to Operate in San Francisco]

3 **Resolution urging the Municipal Transportation Agency to consider compliance with**
4 **California State Assembly Bill No. 5 when issuing permits to emerging technology**
5 **entities, contractors, vendors, and any business entity required to have a permit in**
6 **order to operate in the City and County of San Francisco.**

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8 WHEREAS, The status of a worker as an independent contractor or as an employee
9 has considerable impacts on the working conditions of the worker, including whether the
10 employer or worker bears the responsibility for paying Social Security and payroll taxes,
11 unemployment insurance taxes and state employment taxes, availability of worker's
12 compensation insurance, and compliance with state and federal laws governing wages, hours,
13 and working conditions; and

14 WHEREAS, The recent rise of the so-called "gig economy," wherein employers
15 contract with purportedly independent workers for ostensibly short-term engagements, has
16 predicated itself on a business model of hiring "independent contractors" versus actual
17 "employees," which has resulted in the workers being ineligible for basic benefits typically
18 made available to employees, including but not limited to unemployment insurance, health
19 care, paid parental leave, overtime pay, workers' compensation, a guaranteed minimum
20 hourly wage, and the right to organize to address working conditions; and

21 WHEREAS, California's low-wage and immigrant workers, such as domestic workers,
22 day laborers, restaurant workers, and janitors, among others, are some of the most vulnerable
23 workers also subjected to misclassification and wage theft; and

24 WHEREAS, For years, worker organizations, advocates, and city officials in San
25 Francisco have collaboratively passed laws and policies to establish strong labor protections,

1 fair minimum wages, healthcare security, paid sick leave, and other benefits for employees in
2 San Francisco; and

3 WHEREAS, California State Assembly Bill No. 5 (AB 5), authored by Assembly
4 Member Lorena Gonzalez, was signed into law by Governor Newsom on September 18,
5 2019, and codifies the existing law established by the case of Dynamex Operations West, Inc.
6 v. Superior Court of Los Angeles (2018) 4 Cal.5th 903, which creates a presumption that a
7 worker who performs services for a hirer is an employee for purposes of claims for wages and
8 benefits arising under wage orders issued by the Industrial Welfare Commission; and

9 WHEREAS, In July 2019, the San Francisco Board of Supervisors passed Resolution
10 No. 338-19 supporting California State Assembly Bill No. 5; and

11 WHEREAS, The Municipal Transportation Agency (MTA) adopts permit programs to
12 allow emerging technologies to operate in San Francisco and contracts with vendors; and

13 WHEREAS, The MTA provides an essential public function to the citizens of San
14 Francisco, the interference with which has a significant impact on the lives of the public and
15 commerce of the City; and

16 WHEREAS, Under state law, the City has plenary authority to regulate the use of its
17 streets and sidewalks, subject to the rights retained by the people over public places pursuant
18 to state and federal constitutions; and

19 WHEREAS, The City's authority extends to the regulation and control of traffic and
20 operation of public transportation within its borders; now, therefore, be it

21 RESOLVED, That the Board of Supervisors strongly urges the San Francisco
22 Municipal Transportation Agency's Board of Directors to consider compliance with AB 5
23 (Gonzalez) when issuing permits to emerging technology entities, contractors, vendors, and
24 any entity which seeks to operate in San Francisco; and

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1 FURTHER RESOLVED, That the Board of Supervisors hereby directs the Clerk of the
2 Board to transmit copies of this Resolution to the San Municipal Transportation Agency
3 department head and Board of Directors accordingly.

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