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

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

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

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

WHEREAS, For years, worker organizations, advocates, and city officials in San Francisco have collaboratively passed laws and policies to establish strong labor protections,
fair minimum wages, healthcare security, paid sick leave, and other benefits for employees in
San Francisco; and

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

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

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

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

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

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

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

Supervisors Yee; Walton, Peskin, Mar, Stefani, Brown, Haney, Fewer, Safai, Ronen, Mandelman
BOARD OF SUPERVISORS
FURTHER RESOLVED, That the Board of Supervisors hereby directs the Clerk of the Board to transmit copies of this Resolution to the San Municipal Transportation Agency department head and Board of Directors accordingly.
Resolution urging the Municipal Transportation Agency to consider compliance with California State Assembly Bill No. 5 when issuing permits to emerging technology entities, contractors, vendors, and any business entity required to have a permit in order to operate in the City and County of San Francisco.

October 01, 2019 Board of Supervisors - ADOPTED
Ayes: 11 - Brown, Fewer, Haney, Mandelman, Mar, Peskin, Ronen, Safai, Stefani, Walton and Yee

I hereby certify that the foregoing Resolution was ADOPTED on 10/1/2019 by the Board of Supervisors of the City and County of San Francisco.

Unsigned

London N. Breed
Mayor

I hereby certify that the foregoing resolution, not being signed by the Mayor within the time limit as set forth in Section 3.103 of the Charter, or time waived pursuant to Board Rule 2.14.2, became effective without her approval in accordance with the provision of said Section 3.103 of the Charter or Board Rule 2.14.2.

Angela Calvillo
Clerk of the Board

Date Approved

10/11/2019