

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Kim Becker Aguirre

SUBJECT: SEE BELOW

DATE: October 29, 2014

Approved



Date

10/30/14

**SUBJECT: ISSUANCE OF AIRPORT GROUND TRANSPORTATION
PERMITS TO TRANSPORTATION NETWORK COMPANIES**

INFORMATION

Prior to September 19, 2013, the California Public Utilities Commission (CPUC) initially issued a 'Cease and Desist' order against Lyft, SideCar, and UberX and any other company operating in this alternative transportation capacity stating these companies needed to be licensed by the CPUC. The CPUC subsequently reached agreements with these companies and on September 19, 2013b generated a ruling to implement new safety regulations on this rapidly emerging industry.

The CPUC separated Lyft, Sidecar, and UberX from the existing 'transportation charter party' category and created a distinct category of 'Transportation Network Companies (TNC's)'. This new category would apply to companies providing pre-arranged transportation and services for compensation using an on-line application (app) to connect these service providers with customers. The CPUC would authorize TNC's to operate in California provided that certain requirements were adopted to ensure the safety of passengers, drivers, and pedestrians. On September 19, 2013, the CPUC handed down a decision that authorized TNC's to operate in the State of California and implemented rules and regulations that must be adhered to in order to maintain their CPUC authorization. This list of requirements is attached to this memo as Addendum A.

Between the September 19, 2013, decision by the CPUC and January 2014, TNC's worked towards meeting the requirements imposed by the CPUC. Should any TNC fail to comply with the CPUC requirements they were subject to losing their authorization to operate.

These requirements include ensuring Uber meet the insurance requirements determined by the City's Risk Management Department as well as the requirements set by the Airport to be issued an Airport Ground Transportation Permit. Part of those requirements are set to ensure effective and acceptable technology is in place to capture all on-airport trips and that these trips are accurately reported to Airport staff. The Airport will charge TNC's pick-up fees identical to

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those required of any other pre-arranged Ground Transportation service provider and will randomly audit TNC activity through a third party credit card transaction company.

During this time, Airport staff held meetings with all of the TNC operators to discuss the Airport's requirements for TNC's to provide authorized transportation services at the Airport. This included conversations with the City's Risk Management Department on insurance requirements. As of the date of this memo submittal, Airport staff is very close to being able to issue an Airport Ground Transportation Permit to Raisier-CA, LLC (*i.e., Uber*).

In the event that Raisier-CA, LLC (Uber) meets all Airport and City Risk Management Department requirements and submits all necessary proof of compliance, including all necessary insurance documentation, it is the Airport's intention to issue a Ground Transportation Permit to Raisier-CA, LLC (Uber).

/s/

KIM BECKER AGUIRRE

Director of Aviation

For additional information, please contact Bob Swensen, Airport Operations Manager / Landside at (408) 392-3514.

ADDENDUM A:

The following excerpt is from pages 27-33 of the Final Order issued by the California Public Utilities Commission (Agenda ID #12291(Rev. 5) Quasi-Legislative 9/19/2013 Item 39):

The following rules and regulations shall be applied for all TNCs effective immediately:

Safety Requirements

- a) TNCs shall maintain commercial liability insurance policies providing not less than \$1,000,000 (one million dollars) per-incident coverage for incidents involving vehicles and drivers while they are providing TNC services. The insurance coverage shall be available to cover claims regardless of whether a TNC driver maintains insurance adequate to cover any portion of the claim.
- b) TNC drivers shall be required to provide proof of both their personal insurance and the commercial insurance in the case of an accident.
- c) TNCs shall perform criminal background checks on each TNC driver before the driver begins offering service. In order to protect public safety, any person who has been convicted, within the past seven years, of driving under the influence of drugs or alcohol, fraud, sexual offenses, use of a motor vehicle to commit a felony, a crime involving property damage, and/or theft, acts of violence, or acts of terror shall not be permitted to provide TNC services.
- d) TNCs shall institute a zero tolerance intoxicating substance policy with respect to drivers as follows:
 1. The TNC shall include on its website, mobile application and riders' receipts, notice/information on the TNC's zero-tolerance policy and the methods to report a driver whom the rider reasonably suspects was under the influence of drugs or alcohol during the course of the ride.
 2. The website and mobile application must include a phone number or in-app call function and email address to contact to report the zero-tolerance complaint.
 3. Promptly after a zero-tolerance complaint is filed, the TNC shall suspend the driver for further investigation.
 4. The website and mobile application must also include the phone number and email address of the Commission's Passenger Section: 1-800-894-9444 and CIU_intake@cpuc.ca.gov.

e) TNCs shall obtain each TNC driver's driving record before the driver begins providing service and quarterly thereafter. Drivers with convictions for reckless driving, driving under the influence, hit and run, or driving with a suspended or revoked license shall not be permitted to be a TNC driver. Drivers may have a maximum of two points on their driving records for lesser offenses, e.g., equipment problems, speeding, or child safety seat violations.

f) TNCs shall establish a driver training program to ensure that all drivers are safely operating the vehicle prior to the driver being able to offer service. This program must be filed with the Commission within 45 days of the adoption of this decision. TNCs must report to the Commission on an annual basis the number of drivers that became eligible and completed the course.

g) TNC drivers must possess a valid California driver's license, be at least 21 years of age, and must provide at least one year of driving history before providing TNC services.

h) TNCs may only use street-legal coupes, sedans, or light-duty vehicles including vans, minivans, sport utility vehicles (SUVs) and pickup trucks. Hatchbacks and convertibles are acceptable.

i) TNC drivers are prohibited from transporting more than 7 passengers on any given ride.

j) The app used by a TNC to connect drivers and passengers must display for the passenger: 1) a picture of the driver, and 2) a picture of the vehicle the driver is approved to use, including the license plate number to identify the vehicle.

k) TNC vehicles shall not be significantly modified from factory specifications, e.g., no "stretch" vehicles.

1. Prior to allowing each TNC driver to operate a vehicle, and annually thereafter, a TNC must inspect the driver's vehicle, or have the vehicle inspected at a facility licensed by the California Bureau of Automotive Repair, and maintain complete documentation of such inspections. A TNC driver's vehicle must, at a minimum, pass a 19 point inspection prior to allowing the driver to operate the vehicle under the TNC's platform:

1. Foot brakes;
2. Emergency brakes;
3. Steering mechanism;
4. Windshield;
5. Rear window and other glass;
6. Windshield wipers;
7. Headlights;
8. Tail lights;
9. Turn indicator lights;

10. Stop lights;
11. Front seat adjustment mechanism;
12. Doors (open, close, lock);
13. Horn;
14. Speedometer;
15. Bumpers;
16. Muffler and exhaust system;
17. Condition of tires, including tread depth;
18. Interior and exterior rear view mirrors; and
19. Safety belts for driver and passenger(s).

Regulatory Requirements

For all reports identified below required to be provided by TNCs, the reports must be verified. Verification consists of provision of a signature of a corporate officer of the TNC verifying under penalty of perjury under the laws of the State of California that the report is accurate and contains no material omissions.

- a. TNCs (not the drivers) must be permitted by this Commission before operating as a TNC.
- b. TNCs shall clearly disclose, on their app and website, that TNCs facilitate rides between passengers and private drivers using their own personal vehicles. Additionally, the disclosure should state that each TNC is required to maintain insurance policies providing a minimum of \$1,000,000 (one million dollars) per-incident coverage for incidents involving vehicles and drivers while they are providing TNC services.
- c. TNC drivers may only transport passengers on a prearranged basis. For the purpose of TNC services, a ride is considered prearranged if the ride is solicited and accepted via a TNC digital platform before the ride commences. TNC drivers are strictly prohibited from accepting street hails.
- d. TNCs shall participate in the California Department of Motor Vehicle's Employer Pull Notice Program to obtain timely notice when any of the following are added to a TNC driver's driving record:
 - i. Convictions;
 - ii. Accidents;
 - iii. Failures to appear;
 - iv. Driver's license suspension or revocation; and
 - v. Any other action taken against the driving privilege.

- e. TNCs shall obtain proof of insurance from each TNC driver before the driver begins providing service and for as long as the driver remains available to provide service.
- f. TNCs shall allow passengers to indicate whether they require a wheelchair-accessible vehicle or a vehicle otherwise accessible to individuals with disabilities.
- g. One year from the effective date of these rules and annually thereafter, each TNC shall submit to the Safety and Enforcement Division a report detailing the number and percentage of their customers who requested accessible vehicles, and how often the TNC was able to comply with requests for accessible vehicles.
- h. TNC vehicles shall display consistent trade dress (i.e., distinctive signage or display on the vehicle) when providing TNC services that is sufficiently large and color contrasted as to be readable during daylight hours at a distance of at least 50 feet. The trade dress shall be sufficient to allow a passenger, government official, or member of the public to associate a vehicle with a particular TNC (or licensed transportation provider). Acceptable forms of trade dress include, but are not limited to, symbols or signs on vehicle doors, roofs, or grills. Magnetic or removable trade dress is acceptable. TNC shall file a photograph of their trade dress with the Safety and Enforcement Division.
- i. Although TNCs may provide platforms allowing drivers and passengers to “rate” each other, TNCs shall ensure that such ratings are not based on unlawful discrimination, and that drivers do not discriminate against passengers or potential passengers on the basis of geographic endpoints of the ride, race, color, national origin, religion, sex, disability, age, or sexual orientation/identity.
- j. One year from the effective date of these rules and annually thereafter, each TNC shall submit to the Safety and Enforcement Division a verified report detailing the number of rides requested and accepted by TNC drivers within each zip code where the TNC operates; and the number of rides that were requested but not accepted by TNC drivers within each zip code where the TNC operates. The verified report provided by TNCs must contain the above ride information in electronic Excel or other spreadsheet format with information, separated by columns, of the date, time, and zip code of each request and the concomitant date, time, and zip code of each ride that was subsequently accepted or not accepted. In addition, for each ride that was requested and accepted, the information must also contain a column that displays the zip code of where the ride began, a column where the ride ended, the miles travelled, and the amount paid/donated. Also, each report must contain information aggregated by zip code and by total California of the number of rides requested and accepted by TNC drivers within each zip code where the TNC operates and the number of rides that were requested but not accepted by TNC drivers.
- k. One year from the effective date of these rules and annually thereafter, each TNC shall submit to the Safety and Enforcement Division a verified report in electronic Excel or other spreadsheet format detailing the number of drivers that were found to have

committed a violation and/or suspended, including a list of zero tolerance complaints and the outcome of the investigation into those complaints. Each TNC shall also provide a verified report, in electronic Excel or other spreadsheet format, of each accident or other incident that involved a TNC driver and was reported to the TNC, the cause of the incident, and the amount paid, if any, for compensation to any party in each incident. The verified report will contain information of the date of the incident, the time of the incident, and the amount that was paid by the driver's insurance, the TNC's insurance, or any other source. Also, the report will provide the total number of incidents during the year.

l. One year from the effective date of these rules and annually thereafter, each TNC shall submit to the Safety and Enforcement Division a verified report detailing the average and mean number of hours and miles each TNC driver spent driving for the TNC.

m. Upon request, drivers shall display to Commission or airport enforcement officers, law enforcement, or city or county officials a physical or electronic record of a ride in progress sufficient to establish that it was prearranged. To the extent that trip records are contained on electronic devices, TNC drivers are not required to relinquish custody of the devices in order to make the required display.

n. If a passenger files a complaint against a TNC or TNC driver with the Commission, Commission staff shall have the right to inspect TNC records and vehicles as necessary to investigate and resolve the complaint to the same extent the Commission and Commission staff is permitted to inspect all other charter-party carriers.

o. Operations at Airports. TNCs shall not conduct any operations on the property of or into any airport unless such operations are authorized by the airport authority involved.

p. Similar to our regulations over limousines one-third of one percent of the total revenues from TNC services in California shall be collected by this Commission on a quarterly basis as part of overall fees.