

## Resolution No. 37284

Authorize City Attorney to exercise City authority to subpoena books, documents and other records to determine scope of private for-hire legislation to protect the public health, safety and welfare within the incorporated boundaries of the City of Portland. (Resolution)

WHEREAS, the purpose of the City of Portland's Private For-Hire Transportation Program (PFHT) is to provide for the safe, fair and efficient operation of private "for-hire" transportation services;

WHEREAS, the City of Portland has a responsibility to ensure the safety and reliability of vehicles for-hire as a matter of public concern and has the authority, delegated by ORS 221.495, to license, control and regulate privately owned vehicles for hire operating within the City of Portland;

WHEREAS, the City of Portland's private for-hire transportation network is made up of different modes of PFHT service with different business models, privileges and regulatory burdens, and that each type of service serves an essential role in the overall city-wide transportation network;

WHEREAS, new models of for-hire transportation have emerged in response to changing markets and consumer demand;

WHEREAS, in January of 2015, Transportation Commissioner Steve Novick convened a 12-member, community PFHT Innovation Task Force (Task Force) to provide guidance and recommendations on how the City's PFHT regulatory program should evolve and respond to new developments in the industry, including the entry of TNCs;

WHEREAS, on April 21, 2015, Portland City Council directed the Portland Bureau of Transportation to initiate a PFHT Pilot Program (Resolution 37120), during which time TNC permits were made available to Uber Technologies, Inc./Rasier, LLC ("Uber") and Lyft, Inc. ("Lyft"), regulations for taxi companies were modified and market data was collected and analyzed by the Bureau;

WHEREAS, on April 24, 2015, both Uber and Lyft were granted permits to operate as a TNC Company during the Pilot Program period. Those permits were extended for additional Pilot Periods on August 21, 2015 and December 19, 2015;

WHEREAS, on December 2, 2015, Portland City Council adopted Ordinance 187472, as amended, replacing Chapter 16.40 of the Portland City Code creating permanent rules for Transportation Network Companies effective January 2, 2016;

WHEREAS, in a March 3, 2017 article entitled "How Uber Deceives the Authorities Worldwide", *The New York Times* revealed Uber's use of a software tool known as "Greyball" to deliberately evade local regulators, and in some cases, potential customers in Portland and other cities throughout the world;

WHEREAS, *The New York Times* article depicted a program by Uber called VTOS or “violation of terms of service” in which, among other things, Uber engineers created a playbook with a list of tactics to deceive local regulators and block rides within a given city. Uber engineers distributed the “playbook” to general managers in more than a dozen countries on five continents.

WHEREAS, on March 15, 2017, Mayor Ted Wheeler and Commissioner-in-Charge Dan Saltzman sent Uber a letter detailing the focus of a PBOT led investigation and requesting any and all information relating to the “Greyball” software or any and all documents, including company policies and practices, regarding how Uber or Uber drivers can block or restrict access to transportation services;

WHEREAS, on April 21, 2017, through its counsel, Uber provided a written response to questions contained in the March 15<sup>th</sup> request and data about its use of “Greyball” software in the City of Portland in 2014 and 2015;

WHEREAS, Uber did not provide, however, the City’s request for information about its software, its general managers’ playbook, or policies and practices detailing how riders are blocked or how the VTOS program is implemented and the criteria for implementation; and

WHEREAS the Portland City Council is authorized to permit the City Attorney to subpoena documents and compel testimony by the Portland City Charter, and Portland City Code 3.04.010; and

NOW, THEREFORE, BE IT RESOLVED, the City Attorney is hereby directed by the Portland City Council to issue one or more subpoenas to Uber Technologies, Inc and Rasier, LLC for the production of books, documents, and other materials relating to information sought in the information request letter dated March 15, 2017 in a form substantially similar to that attached as Exhibit A. A copy of the letter is attached to this Resolution as Exhibit B. The authority granted by the City Council to the City Attorney by this Resolution is in exercise of the Council’s authority under the Portland City Charter, and Portland City Code 3.04.010.

Adopted by the Council: **MAY 10 2017**

Commissioner Dan Saltzman  
Mayor Ted Wheeler  
Commissioner Amanda Fritz  
Commissioner Nick Fish  
Commissioner Chloe Eudaly

**MARY HULL CABALLERO**

Auditor of the City of Portland

By 

Deputy

Prepared by: Ken McGair  
May 2, 2017

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Agenda No.

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Title

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INTRODUCED BY Commissioner/Auditor:	CLERK USE: DATE FILED <u>MAY 02 2017</u>
COMMISSIONER APPROVAL	Mary Hull Caballero Auditor of the City of Portland
Mayor—Finance & Administration - Wheeler	
Position 1/Utilities - Fritz	
Position 2/Works - Fish	By: <u>[Signature]</u> Deputy
Position 3/Affairs - Saltzman	
Position 4/Safety - Eudaly	
BUREAU APPROVAL	ACTION TAKEN:
Bureau: City Attorney's Office Bureau Head: Tracy Reeve	
Prepared by: Ken McGair Date Prepared: May 2, 2017	
Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/>	
Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
City Auditor Office Approval:	
City Attorney Approval:	
Council Meeting Date: <b>May 10<sup>th</sup> 2017</b>	

AGENDA <u>2017</u>	FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:	
TIME CERTAIN <input type="checkbox"/> Start time: _____ Total amount of time needed: _____ (for presentation, testimony and discussion)		YEAS	NAYS
CONSENT <input type="checkbox"/>	1. Fritz	1. Fritz	✓
REGULAR <input checked="" type="checkbox"/> Total amount of time needed: <b>15 minutes</b> (for presentation, testimony and discussion)	2. Fish	2. Fish	✓
	3. Saltzman	3. Saltzman	✓
	4. Eudaly	4. Eudaly	✓
	Wheeler	Wheeler	✓