

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF THE PETITION )  
OF TRANSPORTATION DIVISION OF )  
THE NEW MEXICO PUBLIC REGULATION )  
COMMISSION FOR ISSUANCE OF AN )  
ORDER TO SHOW CAUSE AND CEASE )  
AND DESIST AGAINST LYFT, INC. )

Case No. 14-00124-TR-EN

2019 APR 5 PM 4 20

NEW MEXICO  
PUBLIC REGULATION  
COMMISSION  
FILED

**STAFF PETITION AND AFFIDAVIT REQUESTING ISSUANCE OF AN ORDER TO SHOW CAUSE AND CEASE AND DESIST AGAINST LYFT**

The Transportation Division (“Staff”) of the New Mexico Public Regulation Commission (“Commission”) through Staff Counsel, petitions the Commission to issue an order commanding Lyft, Inc. (“Lyft”), to show cause why it should not be fined by the Commission for violations of the New Mexico Motor Carrier Act, NMSA 1978, § 65-2A-1 et seq., and the Motor Transportation Rules of the Commission 18.3.1 NMAC through 18.3.15 NMAC. Staff further requests that the Commission issue an order to cease and desist against Lyft, Inc. requiring that Lyft, Inc., immediately stop operating in the State of New Mexico. As grounds for this Petition, Staff states the following:

**JURISDICTION**

1. The Commission has personal jurisdiction over Lyft and subject matter jurisdiction over this Petition pursuant to the; New Mexico Constitution, Article XI, § 2<sup>1</sup>, the New Mexico Motor Carrier Act, NMSA 1978, § 65-2A-7 A<sup>2</sup>, NMSA 1978, § 65-2A-4 A(7)<sup>3</sup> and

<sup>1</sup> “The [Commission] shall have responsibility for regulating . . . transportation companies, including common and contract carriers . . . in such manner as the legislature shall provide.”

<sup>2</sup> “No person shall offer or provide a transportation service for hire within the state without first obtaining an appropriate operating authority from the Commission. Every motor carrier providing a transportation service shall meet and comply with the requirements of the Motor Carrier Act and the lawfully adopted rules and orders of the Commission.”

<sup>3</sup> “In accordance with the Motor Carrier Act, the [Commission] shall. . . (7) have jurisdiction to determine any matter under the Motor Carrier Act relating to any transportation service carrier that has not obtained an appropriate operating authority from the [Commission].”

the Public Regulation Commission Act , NMSA 1978, § 8-8-4 A<sup>4</sup> and NMSA 1978, §§ 8-8-4 B(5)<sup>5</sup>, -(7)<sup>6</sup>, and -(10)<sup>7</sup>.

2. The New Mexico Motor Carrier Act defines a “motor carrier” or “carrier” to mean “a person offering or providing transportation of persons, property or household goods for hire by motor vehicle, whether in intrastate or interstate commerce;” NMSA 1978, § 65-2A-3 FF.

### **BACKGROUND**

3. On April 25, 2014, Mr. Ryan Jerman, Director of the Transportation Division of the Commission directed Mr. Ryan A. Jimenez, Staff Investigator to conduct an investigation of Lyft based on information that Mr. Jerman had learned that Lyft was operating as a motor carrier in the Albuquerque area.

4. Mr. Jimenez conducted an investigation on April 29, 2014 and prepared an affidavit which is attached to, and made a part of, this Petition as Exhibit 1.

5. Upon information and belief, Lyft is a domestic corporation in the State of Delaware and is registered as a foreign corporation in the State of California<sup>8</sup>.

6. Upon information and belief, Lyft is not registered as a foreign corporation in the State of New Mexico<sup>9</sup>.

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<sup>4</sup> “The [Commission] shall administer and enforce the laws with which it is charged and has every power conferred by law.”

<sup>5</sup> “The [Commission] may: . . . (5) take administrative action by issuing orders not inconsistent with law to assure implementation of and compliance with the provisions of law for which the [Commission] is responsible and to enforce those orders by appropriate administrative action and court proceedings;”

<sup>6</sup> “The [Commission] may: . . . (7) conduct investigations as necessary to carry out the [Commission’s] operations or the provision of services to the citizens of New Mexico;”

<sup>7</sup> “The [Commission] may: . . . (10) adopt such reasonable administrative, regulatory and procedural rules as may be necessary or appropriate to carry out its power and duties;”

<sup>8</sup> *See*, online documents from the States of Delaware and California attached to Mr. Jimenez’s affidavit.

<sup>9</sup> *See*, online document from the New Mexico Office of the Secretary of State, Corporations Bureau attached to Mr. Jimenez’s affidavit.

7. As described in the affidavit of Mr. Jimenez, Messrs. Jerman and Jimenez utilized the transportation services of Lyft on at least two occasions on April 29, 2014 and were charged for each trip. The transportation service provided to Messrs. Jerman and Jimenez were for hire and intrastate within the State of New Mexico.

### RELEVANT STATUTES AND RULES

8. Under the Motor Carrier Act:

No person shall offer or provide a transportation service for hire within the state without first obtaining an appropriate operating authority from the [Commission]. Every motor carrier providing a transportation service shall meet and comply with the requirements of the Motor Carrier Act and the lawfully adopted rules and orders of the [Commission].

NMSA 1978, 65-2A-7 A.

9. Under the Motor Carrier Act:

A. The [Commission] shall prescribe minimum requirements for financial responsibility for all motor carriers.

B. A motor carrier shall not operate on the highways of this state without having filed with the [Commission] proof of financial responsibility in the form and amount as the [Commission] shall by rule prescribe.

NMSA 1978, § 65-2A-18 A.

10. Under the Motor Carrier Act:

The [Commission] shall prescribe safety requirements for drivers and for motor vehicles weighing twenty-six thousand pounds or less or carrying fifteen or fewer persons, including the driver, used by intrastate motor carriers operating in this state. The [Commission] may prescribe additional requirements relating to safety, including driver safety training programs, vehicle preventative maintenance programs, inquiries regarding the safety of the motor vehicles and drivers employed by a motor carrier, and the appropriateness of the motor vehicles and equipment for the transportation services to be provided by the motor carrier.

NMSA 1978, § 65-2A-19 B.

11. Under the Motor Carrier Act:

If the [Commission] finds after investigation that a provision of the Motor Carrier Act or an order or rule of the [Commission] is being, has been or is about to be violated, it may issue an order specifying the actual or proposed acts or omissions to act that constitute a violation and require that the violation be discontinued, rectified or prevented.

NMSA 1978, § 65-2A-32 A.

12. Under the Motor Carrier Act:

Notwithstanding the existence of any other penalties, the [Commission] may assess an administrative fine of not more than ten thousand dollars (\$10,000) for each violation of a provision of the Motor Carrier Act or a lawful rule or order of the [Commission]. In case of a continuing violation, each day's violation shall be deemed to be a separate and distinct offense.

NMSA 1978, § 65-2A-32 B.

13. Under the Motor Carrier Act:

A motor carrier may use employed or contract drivers or taxicab association member drivers in the provision of a transportation service. Regardless of the provisions of any written or oral agreement between a motor carrier and a contract driver or taxicab association member driver, motor carriers providing transportation services that use contract drivers or taxicab association member drivers remain fully responsible to the [Commission] for complying with all provisions of the Motor Carrier Act and [Commission] rules applicable to transportation service carriers.

NMSA 1978, § 65-2A-24 B.

14. Under the Motor Transportation Rules of the Commission:

The director shall determine which type of operating authority is appropriate based on the attributes of the type of service the applicant proposes to provide. The [Commission] may at any time determine whether an operating authority is appropriate for the type of service a motor carrier is providing.

\* \* \*

18.3.2.8 NMAC.

15. Under the Motor Transportation Rules of the Commission:

Every motor carrier must file proof of financial responsibility with the [Commission].

18.3.3.8 NMAC.

16. Under the Motor Transportation Rules of the Commission, acceptable forms of proof of financial responsibility are a Uniform Filing Form E, a surety bond, or a certified statement from the Superintendent of Insurance that the motor carrier has met all requirements to be self-insured. 18.3.3.8 A(1) NMAC.

17. Under the Motor Transportation Rules of the Commission:

Motor carries of persons providing service in vehicles with a seating capacity of six (6) persons or fewer, excluding the driver, must maintain a combined single-limit public liability insurance policy of at least one million dollars (\$1,000,000) per occurrence for bodily injury to or death of all persons injured or killed or property damage.

18.3.3.10 C NMAC.

18. Under the Motor Transportation Rules of the Commission, the Commission has prescribed drug and alcohol testing requirements applicable to all motor carrier drivers subject to the jurisdiction of the Commission. 18.3.4.2 NMAC and 18.3.4.10 A NMAC.

19. Under the Motor Transportation Rules of the Commission, the Commission has prescribed driver qualifications that include, among other things, general qualifications of drivers, annual inquiry and review of driving record, physical qualifications for drivers, medical examinations and certificate of physical examination applicable to all motor carrier drivers subject to the jurisdiction of the Commission. 18.3.4.2 NMAC and 18.3.4.12 B NMAC.

20. Under the Motor Transportation Rules of the Commission, the Commission has prescribed equipment and inspection, repair, and maintenance requirements applicable to all motor vehicles operated by the motor carrier in the course of its operations. 18.3.4.2 NMAC, 18.3.4.12 D NMAC, and 18.3.4.12 E NMAC.

## ALLEGATIONS

21. Staff repeats and re-alleges Paragraphs 1 through 16 as if more fully set forth here, and also incorporates Exhibit 1 by reference.

22. Upon information and belief, Lyft operates an on-line application whereby prospective passengers can solicit, ride, and pay for transportation services. These transportation services are provided by drivers under a contractual relationship with Lyft.

23. Upon information and belief, in spite of the contractual relationship between Lyft and its New Mexico drivers, the Motor Carrier Act assigns responsibility for compliance with the Motor Carrier Act and the Motor Transportation rules to the motor carrier, Lyft. NMSA 1978, § 65-2A-24 B.

24. Upon information and belief, Lyft performed transportation of persons for hire by motor vehicle in intrastate commerce as set forth in NMSA 1978, § 65-2A-3 FF on at least two (2) occasions as described in Exhibit 1 and contrary to NMSA 1978, § 65-2A-7 A.

25. Upon information and belief, Lyft has not complied with the financial responsibility requirements set forth above in NMSA 1978, § 65-2A-7 A, and 18.3.3.8 A(1) NMAC, and 18.3.3.10 C NMAC.

26. Upon information and belief, Lyft has not complied with the safety requirements applicable to drives and equipment set forth above in NMSA 1978, § 65-2A-18 A, 18.3.4.2 NMAC, 18.3.4.10 A NMAC, 18.3.4.12 B NMAC, 18.3.4.12 D NMAC, and 18.3.4.12 E NMAC.

27. For all the reasons stated above, probable cause exists that Lyfts' conduct has violated the Motor Carrier Act, and the Motor Transportation Rules of the Commission and such conduct is contrary to the public interest.

28. To the extent Lyft cannot demonstrate compliance with each violation of the Motor Carrier Act and Motor Transportation Rules of the Commission Staff has alleged, Staff seeks cumulative penalties for each statutory or rule violation up to ten thousand dollars (\$10,000) per violation as found by the Commission.

29. Staff also seeks an Order from the Commission commanding Lyft to immediately cease and desist for hire, intrastate operations in the State of New Mexico.

**WHEREFORE**, Staff respectfully requests that the Commission issue an Order:

A. Opening a docket in this matter, find probable cause that violations of the Motor Carrier Act and the Motor Transportation Rules of the Commission have occurred as described above and commanding Lyft to show cause in writing why it should not be fined by the Commission for violations of the New Mexico Motor Carrier Act, NMSA 1978, § 65-2A-1 et seq., and the Motor Transportation Rules of the Commission, 18.3.1 NMAC through 18.3.15 NMAC;

B. Commanding Lyft to immediately cease and desist for hire, intrastate operations in the State of New Mexico; and,

C. For such other and further relief as the Commission finds just and reasonable.

Respectfully submitted,

Transportation Division  
New Mexico Public Regulation Commission



Avelino A. Gutierrez  
Staff Counsel/Legal Division  
New Mexico Public Regulation Commission  
P.O. Box 1269  
Santa Fe, NM 87504-1269  
(505) 827-4565  
avelino.gutierrez@state.nm.us

## **EXHIBIT 1**

### **BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION**

**IN THE MATTER OF STAFF'S PETITION  
FOR ORDER TO SHOW CAUSE WHY  
LYFT IS NOT IN VIOLATION OF THE MOTOR  
CARRIER ACT AND PRC RULES AND FOR OTHER  
RELIEF.**

**Case No. 04-14-025**

#### **AFFIDAVIT**

**I, Ryan A. Jimenez, first duly sworn upon oath state the following:**

1. I am employed by the New Mexico Public Regulation Commission as an Investigator for the Transportation Division.
2. On April 25, 2014, Mr. Ryan Jerman, Director of the Transportation Division of the Commission, requested that I conduct an investigation of Lyft, a motor carrier that is not in possession of an authority from the Commission to provide transportation services to and from points and places in the State of New Mexico.
3. Through an investigation that was conducted on April 29, 2014 by NMPRC Investigator Ryan Jimenez, it was found that Lyft was providing transportation services for hire without authorization from the NMPRC thus being in violation of multiple NMPRC Rules and State Statutes.
4. After confirmation from the New Mexico Secretary of State Corporations Bureau, Lyft is not a registered entity in the State of New Mexico nor are they registered as a Foreign Entity to conduct business within New Mexico.
5. Per the Lyft User Agreement it states the following: You (Driver) and Lyft are independent contractors, and no agency, partnership, joint venture, employee-employer or franchisor-franchisee relationship is intended or created by this agreement (Please refer to Exhibit C). Per this agreement Lyft is in violation of:

#### **65-2A-24. Motor Vehicle Leases; Driver Contracts**

A. An intrastate motor carrier shall not lease a motor vehicle or operate a leased motor vehicle in the course of its transportation service except as provided by commission rule. The commission may approve a motor vehicle lease without notice or a public hearing.

B. A motor carrier may use employed or contract drivers or taxicab association member drivers in the provision of a transportation service. Regardless of the provisions of any written or oral agreement between a motor carrier and a contract driver or taxicab association member driver, motor carriers providing transportation services that use contract drivers or taxicab association member drivers remain fully responsible to the commission for complying with all provisions of the Motor Carrier Act and commission rules applicable to transportation service carriers.

C. Motor carriers providing intrastate transportation services that use contract drivers or taxicab association member drivers shall maintain, at their principal places of business within the state, a current written agreement with each such driver. No agreement with any contract driver or taxicab association member driver shall contain any provision contrary to a provision of the Motor Carrier Act or a rule of the commission. Each written agreement shall contain a clause that requires the contract driver or taxicab association member driver to adhere to all provisions of the Motor Carrier Act and to all commission rules applicable to transportation service carriers.

History: Laws 2003, ch. 359, § 24; 2013, ch. 73, § 22; 2013, ch. 77, § 22.

6. On April 29, 2013, I, together with Investigations Manager, Paul Montoya and Transportation Director, Ryan Jerman conducted a scheduled ride with A Lyft Operator (EXHIBIT A) Director Jerman and I scheduled to be picked up at 1012 Eubank Boulevard NE, Albuquerque NM at approximately 1:10 p.m. (Please note all arrangement were made through the Lyft Application that was downloaded through Director Jerman's personal phone.)

We scheduled to have the Lyft driver take us to 6904 Central Avenue NE, Albuquerque NM. Upon pick up the driver advised Director Jerman and I that he has been a Lyft driver since Friday, which has only been four days. He advised us that he thought there was least a "couple dozen drivers" hired currently by Lyft but the majority of them work at night. He applied through the Lyft Application process by submitting some personal information, including background information, driving record, insurance information and vehicle information. The driver was then asked how the "donation process" worked through the payment process. The driver then advised us that due to a promotion process the ride was free for several weeks until May. I then asked the driver how he was paid. He then told me that he was paid by the company and any tips that were submitted. I then asked if there was any drug and alcohol policies the Operators had to abide by, he then answered there were not. Once we arrived at our destination the Operator advised us that he inputs this information to his system and we were free to go. He advised us that we would receive a receipt via e-mail within a few minutes for our "free ride". The receipt confirmed Director Jerman was charged ten dollars for a 3 mile ride.

7. On April 29, 2013, I, together with NMPRC Transportation Director, Ryan Jerman arranged a ride from the Albuquerque Sunport to 2070 Menaul Blvd NE, Albuquerque NM (EXHIBIT B).

The Lyft Application advised Director Jerman that the Lyft driver would be at our location in approximately 5 minutes. The Lyft driver was at our location at approximately 2:34 p.m. The driver advised us that he had been driving for only about four or five days as a Lyft driver, for supplemental income to his music career. I asked the driver as to the process of becoming a driver for Lyft.

He advised me that he went through a hiring process through the application which included a vehicle inspection. I then asked him if he has to do any follow up inspections for his vehicle, for

instance an annual inspection. He advised me that he was never told this, and did not know. I then asked the driver if he took my credit card or if I had to pay cash for our ride. He then explained to me that the ride was free for a promotional period until May, but he gets paid by the Lyft company \$1.85 per mile and shares any tips that are submitted. Lyft will take 20% of this total cost and the driver gets the remaining 80%. We then arrived at our destination where the driver informed us that he had to input information to the system then we would receive a receipt for our "free" ride. Director Jerman then received an e-mail with his receipt that did verify his credit card was debited \$19 dollars for a 6 mile ride.

8. Based on the affirmed events, this Investigator is confident that the following Provisions of the Motor Carrier Act and New Mexico Transportation Rules were violated by Lyft.

9. **65-2A-3. Definitions**

N. "contract driver" means a person who contracts with a motor carrier as an independent contractor to drive a vehicle pursuant to an operating authority issued to the motor carrier.

S. "for hire" means that transportation is offered or provided to the public for remuneration, compensation or reward of any kind, paid or promised, either directly or indirectly;

FF. "motor carrier" or "carrier" means a person offering or providing transportation of persons, property or household goods for hire by motor vehicle, whether in intrastate or interstate commerce.

10. **65-2A-7. Operating Authorities in General.**

A. No person shall offer or provide a transportation service for hire within the state without first obtaining an appropriate operating authority from the commission. Every motor carrier providing a transportation service shall meet and comply with the requirements of the Motor Carrier Act and the lawfully adopted rules and orders of the commission.

B. A certificate, permit or warrant, or a change in a certificate or permit, shall be effective from the date issued by the commission and shall remain in effect until canceled, revoked, suspended or amended.

C. A motor carrier shall carry a copy of its operating authority in each motor vehicle it operates in New Mexico.

D. A certificated service carrier shall render reasonably continuous and adequate service as the commission may by rule prescribe.

11. **65-2A-18. Financial Responsibility.**

A. The commission shall prescribe minimum requirements for financial responsibility for all motor carriers.

B. A motor carrier shall not operate on the highways of this state without having filed with the commission proof of financial responsibility in the form and amount as the commission shall by rule prescribe.

12. **65-2A-19 - Safety Requirements for Motor Vehicles and Drivers used in Compensated Transportation.**

B. The commission shall prescribe safety requirements for drivers and for motor vehicles weighing twenty-six thousand pounds or less or carrying fifteen or fewer persons, including the driver, used by intrastate motor carriers operating in this state. The commission may prescribe additional requirements related to safety, including driver safety training programs, vehicle preventive maintenance programs, inquiries regarding the safety of the motor vehicles and drivers employed by a motor carrier, and the appropriateness of the motor vehicles and equipment for the transportation services to be provided by the motor carrier.

**13. New Mexico State Statute 65-2A-32. (Administrative Penalties)**

A. If the commission finds after investigation that a provision of the Motor Carrier Act [65-2A-1 NMSA 1978] or an order or rule of the commission is being, has been or is about to be violated, it may issue an order specifying the actual or proposed acts or omissions to act that constitute a violation and require that the violation be discontinued, rectified or prevented.

B. Notwithstanding the existence of any other penalties, the commission may assess an administrative fine of not more than ten thousand dollars (\$10,000) for each violation of a provision of the Motor Carrier Act or of a lawful rule or order of the commission. In case of a continuing violation, each day's violation shall be deemed to be a separate and distinct offense.

C. Notwithstanding the existence of other penalties, the commission may assess an administrative fine of not more than ten thousand dollars (\$10,000) against a person knowingly using a motor carrier not properly authorized by the commission.

D. All penalties accruing under the Motor Carrier Act shall be cumulative, and a suit for recovery of one penalty shall not be a bar to or affect the recovery of any other penalty or be a bar to any criminal prosecution under the Motor Carrier Act.

**14. New Mexico Motor Transportation Rule 18.3.2.8 NMAC Operating Authority**

**Required**

No person shall provide any of the following compensated transportation services in

New Mexico without having first obtained from the commission the operating authority required for the particular type of service to be rendered. The director shall determine which type of operating authority is appropriate based on the attributes of the type of service the applicant proposes to provide. The commission may at any time determine whether an operating authority

is appropriate for the type of service a motor carrier is providing.

[ The rule also makes clear that a Certificate or Permit is required for taxi Cab service:

18.3.2.8 C (1) NMAC ]

**15. 65-2A-18 - Financial Responsibility.**

A. The commission shall prescribe minimum requirements for financial responsibility for all motor carriers, including incidental carriers pursuant to this section. Rules regarding financial responsibility of incidental carriers shall be adopted by July 1, 2006 by the commission, and implementation of the financial responsibility requirements for incidental carriers shall begin on July 1, 2006.

B. A motor carrier or incidental carrier shall not operate on the highways of this state without having filed with the commission proof of financial responsibility in the form and amount as the commission shall by rule prescribe. The maximum amount of financial responsibility, as determined by the commission, for incidental carriers shall not exceed that required of other motor carriers.

16. The above violations are documented in this Investigator's Affidavit, which consists of carrier's records, interviews and evidence related to this investigation.

**FURTHER AFFIANT SAYETH NAUGHT.**

Signed and sworn to before me on this 5<sup>TH</sup> day of May 2014, by Ryan A. Jimenez.

  
Ryan A. Jimenez  
Investigator, Transportation Division

Notary Public



My Commission Expires:

12.06.2016

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF THE PETITION )  
OF TRANSPORTATION DIVISION OF )  
THE NEW MEXICO PUBLIC REGULATION )  
COMMISSION FOR ISSUANCE OF AN ) **Case No. 14-00124-TR-EN**  
ORDER TO SHOW CAUSE AND CEASE )  
AND DESIST AGAINST LYFT, INC. )  
\_\_\_\_\_ )

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that true and correct copies of the foregoing Order Granting STAFF PETITION AND AFFIDAVIT REQUESTING ISSUANCE OF AN ORDER TO SHOW CAUSE AND CASE AND DESIST AGAINST LYFT filed May 05, 2014, was sent on May 05, 2014 26, 2014, by electronic mail and or regular mail to the parties listed below.

Kristin Sverchek  
General Counsel  
LYFT, INC.  
548 Market St # 68514  
San Francisco, CA 94104

The Honorable Gary King  
NM Attorney General  
PO Drawer 1508  
Santa Fe, NM 87504-1508

Earth Class Mail Corporation  
548 Market St  
San Francisco, CA 94104-5401

Major Tim C. LaBier  
Dept. of Public Safety  
PO Box 1628  
Santa Fe, NM 87504

Incorporating Services, LTD  
3500 S Dupont HWY  
Dover, DE 19901

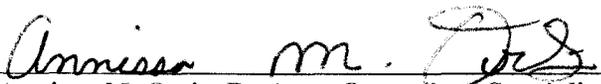
**Hand-delivered to:**  
Ryan Jerman, Esq.  
NMPRC-Transportation Division  
1120 Paseo de Peralta  
PO Box 1269  
Santa Fe, NM 87501

**Hand-delivered to:**  
Michael Smith  
General Counsel  
NMPRC-OGC  
1120 Paseo de Peralta  
PO Box 1269  
Santa Fe, NM 87501

[ryan.jerman@state.nm.us](mailto:ryan.jerman@state.nm.us)  
[lmartinez@nmag.gov](mailto:lmartinez@nmag.gov)  
[tim.labier@state.nm.us](mailto:tim.labier@state.nm.us)  
[Michael.Smith@state.nm.us](mailto:Michael.Smith@state.nm.us)

DATED this 05th day of May 2014.

NEW MEXICO PUBLIC REGULATION COMMISSION

  
Annissa M. Ortiz, Business Operations Specialist-O

**BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION**

**IN THE MATTER OF THE PETITION )  
OF THE TRANSPORTATION DIVISION OF )  
THE NEW MEXICO PUBLIC REGULATION )  
COMMISSION FOR ISSUANCE OF AN )  
ORDER TO SHOW CAUSE AND CEASE )  
AND DESIST AGAINST LYFT, INC. )**

2014 MAY 15 PM 4 09

Case No. 14-00124-TR-EN

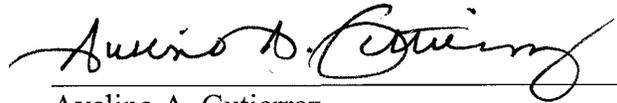
**NOTICE OF FILING OF EXHIBITS TO STAFF PETITION  
AND AFFIDAVIT REQUESTING ISSUANCE OF AN ORDER  
TO SHOW CAUSE AND CEASE AND DESIST AGAINST LYFT**

The Transportation Division (“Staff”) of the New Mexico Public Regulation Commission (“Commission”) hereby gives notice of Staff’s filing of Exhibits to the Affidavit of Ryan Jimenez attached to Staff’s Petition and Affidavit Requesting Issuance of an Order to Show Cause and Cease and Desist Against Lyft, Inc. (“Lyft”) filed on May 5, 2014. The Exhibits to the Affidavit of Ryan Jimenez attached to this Notice are:

1. Print-out of on-line information from the State of Delaware, Department of State, Division of Corporations of entity name Lyft, Inc. (Exhibit A- 1 page);
2. Print-out of on-line information from the State of California, Secretary of State’s Office of entity name Lyft, Inc. (Exhibit B – 1 page);
3. Print –out of e-mail from Stacy Starr-Garcia, Corporations Manager, New Mexico Secretary of State’s Office regarding Lyft, Inc. (Exhibit C- 1 page); and,
4. Two receipts from Lyft, Inc., showing charges for two intrastate rides [to Ryan Jerman] (Exhibit D- 2 pages or 1 page per receipt).

Respectfully submitted,

Transportation Division  
New Mexico Public Regulation Commission



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Avelino A. Gutierrez  
Staff Counsel/Legal Division  
New Mexico Public Regulation Commission  
P.O. Box 1269  
Santa Fe, NM 87504-1269  
(505) 827-4565  
avelino.gutierrez@state.nm.us

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**THIS IS NOT A STATEMENT OF GOOD STANDING**

<u>File Number:</u>	<b>4311245</b>	<u>Incorporation Date / Formation Date:</u>	<b>03/05/2007</b> (mm/dd/yyyy)
<u>Entity Name:</u>	<b>LYFT, INC.</b>	<u>Entity Kind:</u>	<b>CORPORATION</b>
<u>Entity Type:</u>	<b>GENERAL</b>	<u>Residency:</u>	<b>DOMESTIC</b>
<u>State:</u>	<b>DE</b>		

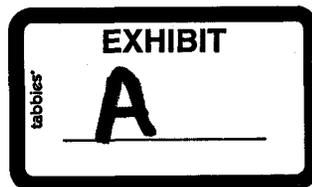
**REGISTERED AGENT INFORMATION**

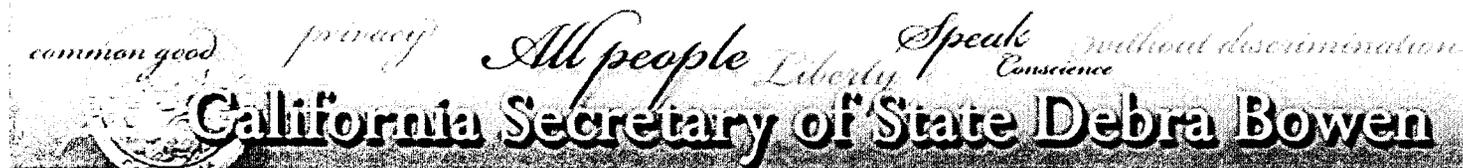
<u>Name:</u>	<b>INCORPORATING SERVICES, LTD.</b>		
<u>Address:</u>	<b>3500 S DUPONT HWY</b>		
<u>City:</u>	<b>DOVER</b>	<u>County:</u>	<b>KENT</b>
<u>State:</u>	<b>DE</b>	<u>Postal Code:</u>	<b>19901</b>
<u>Phone:</u>	<b>(302)531-0855</b>		

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### FAQs

### Contact Information

### Resources

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- [Starting A Business](#)

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- [Misleading Business Solicitations](#)

## Business Entity Detail

Data is updated to the California Business Search on Wednesday and Saturday mornings. Results reflect work processed through Tuesday, April 29, 2014. Please refer to [Processing Times](#) for the received dates of filings currently being processed. The data provided is not a complete or certified record of an entity.

Entity Name:	LYFT, INC.
Entity Number:	C3181802
Date Filed:	12/19/2008
Status:	ACTIVE
Jurisdiction:	DELAWARE
Entity Address:	548 MARKET STREET #68514
Entity City, State, Zip:	SAN FRANCISCO CA 94104
Agent for Service of Process:	EARTH CLASS MAIL CORPORATION
Agent Address:	548 MARKET ST
Agent City, State, Zip:	SAN FRANCISCO CA 94104-5401

\* Indicates the information is not contained in the California Secretary of State's database.

- If the status of the corporation is "Surrender," the agent for service of process is automatically revoked. Please refer to California Corporations Code [section 2114](#) for information relating to service upon corporations that have surrendered.
- For information on checking or reserving a name, refer to [Name Availability](#).
- For information on ordering certificates, copies of documents and/or status reports or to request a more extensive search, refer to [Information Requests](#).
- For help with searching an entity name, refer to [Search Tips](#).
- For descriptions of the various fields and status types, refer to [Field Descriptions and Status Definitions](#).

[Modify Search](#) [New Search](#) [Printer Friendly](#) [Back to Search Results](#)

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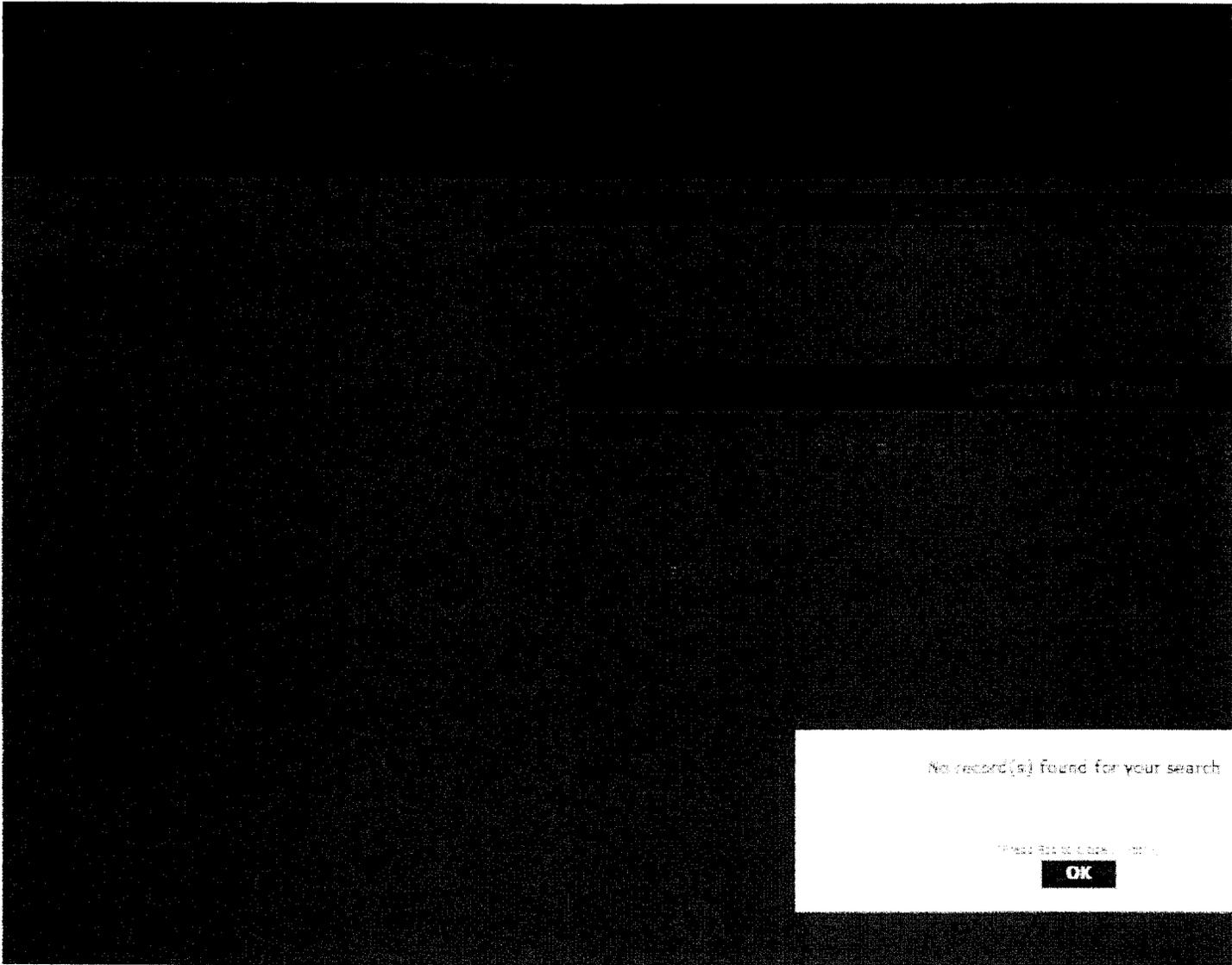
**Jimenez, Ryan, PRC**

---

**From:** Starr-Garcia, Stacy, SOS  
**Sent:** Thursday, May 1, 2014 3:25 PM  
**To:** Jimenez, Ryan, PRC  
**Subject:** Lyft verification from NMSOS Corporations Bureau

Hi Ryan

We do not have a registered entity by the name of Lyft.



No record(s) found for your search

Press F11 to toggle full screen

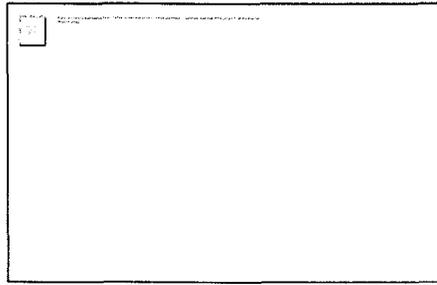
**OK**

If I can assist further, please let me know.  
Thank you  
Stacy

Stacy Marie Starr-Garcia  
Corporations Manager  
505-827-1508



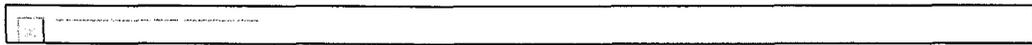
Ride ending April 29 at 1:19 PM



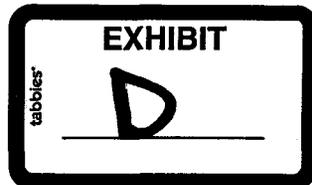
Pickup: 1012 Embank Boulevard Northeast  
Albuquerque, NM 87112, USA  
Dropoff: 6904 Central Avenue Northeast, Albuquerque,  
NM 87108, USA

Ride 3.0 mi & 8 min: \$10  
Total charged to MasterCard \*\*\*2393: \$10

Receipt #354152719 · Request a price review · Learn more about donations  
Questions? Email [support@lyft.com](mailto:support@lyft.com). Learn more about our Zero Tolerance Policies



[support@lyft.com](mailto:support@lyft.com) · [Twitter](#) · [Facebook](#) · [Work at Lyft](#)





**BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION**

**IN THE MATTER OF THE PETITION )  
OF THE TRANSPORTATION DIVISION OF )  
THE NEW MEXICO PUBLIC REGULATION )  
COMMISSION FOR ISSUANCE OF ) Case No. 14-00124-TR-EN  
ORDER TO SHOW CAUSE AND CEASE )  
AND DESIST AGAINST LYFT, INC )**

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that true and correct copies of the foregoing Notice of Filing of Exhibits to Staff Petition and Affidavit Requesting Issuance of an Order to Show Cause and Cease and Desist Against Lyft filed May 15, 2014, was sent on the same day by electronic mail and or regular mail to the parties listed below.

Kristen Sverchek  
General Counsel  
LYFT, INC.  
548 Market St. #68514  
San Francisco, CA 94104

Major Tim C. LaBier  
Dept. of Public Safety  
PO Box 1628  
Santa Fe, NM 87504

The Honorable Gary King  
NM Attorney General  
PO Drawer 1508  
Santa Fe, NM 87504-1508

Earth Class Mail Corporation  
548 Market St.  
San Francisco, CA 94104

Incorporating Services, LTD  
3500 S Dupont HWY  
Dover, DE 19901

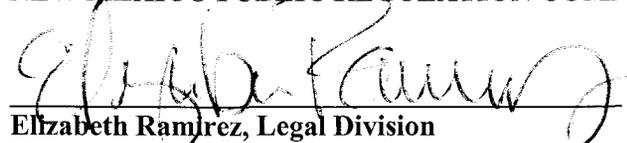
**Hand-delivered to:**  
Ryan Jerman, Esq.  
NMPRC-Transportation Division  
1120 Paseo de Peralta  
PO Box 1269  
Santa Fe, NM 87501

**Hand-delivered to:**  
Richard Blumenfeld  
General Counsel  
NMPRC-OGC  
1120 Paseo de Peralta  
PO Box 1269  
Santa Fe, NM 87501

[ryan.jerman@state.nm.us](mailto:ryan.jerman@state.nm.us);  
[Richard.Blumenfeld@state.nm.us](mailto:Richard.Blumenfeld@state.nm.us)  
[tim.labier@state.nm.us](mailto:tim.labier@state.nm.us)  
[lmartinez@nmag.gov](mailto:lmartinez@nmag.gov)

DATED this 15th day of May, 2014.

NEW MEXICO PUBLIC REGULATION COMMISSION

  
Elizabeth Ramirez, Legal Division

**BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION**

**IN THE MATTER OF THE PETITION )  
OF THE TRANSPORTATION DIVISION OF )  
THE NEW MEXICO PUBLIC REGULATION )  
COMMISSION FOR ISSUANCE OF AN )  
ORDER TO SHOW CAUSE AND CEASE )  
AND DESIST AGAINST LYFT, INC. )**

2014 MAY 19 AM 10 57

Case No. 14-00124-TR-EN

**NOTICE OF FILING OF ADDITIONAL EXHIBIT TO STAFF PETITION  
AND AFFIDAVIT REQUESTING ISSUANCE OF AN ORDER  
TO SHOW CAUSE AND CEASE AND DESIST AGAINST LYFT**

The Transportation Division (“Staff”) of the New Mexico Public Regulation Commission (“Commission”) hereby gives notice of Staff’s filing of Exhibit to the Affidavit of Ryan Jimenez attached to Staff’s Petition and Affidavit Requesting Issuance of an Order to Show Cause and Cease and Desist Against Lyft, Inc. (“Lyft”) filed on May 5, 2014. The Exhibit to the Affidavit of Ryan Jimenez attached to this Notice is:

1. Print-out of User Agreement of Lyft, Inc. (Exhibit E- 24 pages);

Respectfully submitted,

Transportation Division  
New Mexico Public Regulation Commission



Avelino A. Gutierrez  
Staff Counsel/Legal Division  
New Mexico Public Regulation Commission  
P.O. Box 1269  
Santa Fe, NM 87504-1269  
(505) 827-4565  
avelino.gutierrez@state.nm.us



Your friend with a car

## Lyft Terms of Service

May 8, 2014

THIS FOLLOWING USER AGREEMENT DESCRIBES THE TERMS AND CONDITIONS ON WHICH LYFT, INC. OFFERS YOU ACCESS TO THE LYFT PLATFORM.

Welcome to the user agreement (the "Agreement" or "User Agreement" or "Terms of Service") for Lyft (the "Lyft Platform"), an application owned and operated by Lyft Inc., a Delaware corporation, whose principal office is located at *548 Market St #68514, San Francisco, CA 94104*. This Agreement is a legally binding agreement made between you ("You," "Your," or "Yourself") and Lyft, Inc. ("Lyft," "We," "Us" or "Our").

Lyft is willing to license, not sell, the Lyft Platform to You only upon the condition that You accept all the terms contained in this Agreement. By signing up with or by using the Lyft Platform, You indicate that You understand this Agreement and accept all of its terms. If You do not accept all the terms of this Agreement, then Lyft is unwilling to license the Lyft Platform to You.

This paragraph applies to any version of the Lyft Platform that you acquire from the Apple App Store. This Agreement is entered into between You and Lyft. Apple, Inc. ("Apple") is not a party to this Agreement and shall have no obligations with respect to the Lyft Platform. Lyft, not Apple, is solely responsible for the Lyft Platform and the content thereof as set forth hereunder. However, Apple and Apple's subsidiaries are third party beneficiaries of this Agreement. Upon Your acceptance of this Agreement, Apple shall have the right (and will be deemed to have accepted the right) to enforce this Agreement against You as a third party beneficiary thereof. This Agreement

incorporates by reference the Licensed Application End User License Agreement published by Apple, for purposes of which, You are "the end-user." In the event of a conflict in the terms of the Licensed Application End User License Agreement and this Agreement, the terms of this Agreement shall control.

The Lyft Platform provides a means to enable persons who seek transportation to certain destinations ("Riders") to be matched with persons driving to or through those destinations ("Drivers"). For purposes of this Agreement these services shall collectively be defined as the "Services". This Agreement describes the terms and conditions that will govern Your use of and participation in the Lyft Platform.

Please read this Agreement carefully before using the Services. You must read, agree with and accept all of the terms and conditions contained in this Agreement, which includes those terms and conditions expressly set out below and those incorporated by reference, before You use any of the Services. By using any of the Services, You become a Participant in Lyft and a User of Services available on the Lyft Platform ("Participant" or "User") and You agree to be bound by the terms and conditions of this Agreement with respect to such Services.

IF YOU DO NOT AGREE TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT, PLEASE DO NOT USE OR ACCESS LYFT OR REGISTER FOR THE SERVICES PROVIDED ON LYFT. We may amend this Agreement at any time by posting the amended terms on the Lyft Platform. If We post amended terms on the Lyft Platform, You may not use the Services without accepting them. Except as stated below, all amended terms shall automatically be effective after they are posted on the Lyft Platform. This Agreement may not be otherwise amended except in writing signed by You and Lyft.

LYFT DOES NOT PROVIDE TRANSPORTATION SERVICES, AND LYFT IS NOT A TRANSPORTATION CARRIER. IT IS UP TO THE DRIVER OR VEHICLE OPERATOR TO DECIDE WHETHER OR NOT TO OFFER A RIDE TO A RIDER CONTACTED THROUGH THE LYFT PLATFORM, AND IT IS UP THE RIDER TO DECIDE WHETHER OR NOT TO ACCEPT A RIDE FROM ANY DRIVER CONTACTED THROUGH THE LYFT PLATFORM. ANY DECISION BY A USER TO OFFER OR ACCEPT TRANSPORTATION ONCE SUCH USER IS MATCHED THROUGH THE LYFT PLATFORM IS A DECISION MADE IN SUCH USER'S SOLE DISCRETION. LYFT OFFERS INFORMATION AND A METHOD TO CONNECT DRIVERS AND RIDERS WITH EACH OTHER, BUT DOES NOT AND DOES NOT INTEND TO PROVIDE TRANSPORTATION SERVICES OR ACT IN ANY MANNER AS A TRANSPORTATION CARRIER, AND HAS NO RESPONSIBILITY OR LIABILITY FOR ANY TRANSPORTATION SERVICES VOLUNTARILY PROVIDED TO ANY RIDER BY ANY DRIVER USING THE LYFT PLATFORM.

## Payments

- Donations (applicable to all users outside California). As a Rider outside California, You may elect to make a voluntary donation (“Donation”) for the ride a Driver has provided to You. The decision whether to make a Donation and the amount of the Donation is at Your sole discretion, and the Driver will not receive any compensation or consideration for providing You a ride other than the amount (if any) of this voluntary Donation. As a Driver, You may receive from a Rider a Donation for the ride You have provided. Each Driver acknowledges that the decision to provide such Donation and the amount of the Donation is at the Rider’s sole discretion, and that the Driver will not request from Rider or receive any compensation or consideration for providing a ride to the Rider other than the amount (if any) of the Donation. A Donation may be any amount from \$0 up, as specified by Rider. If, within twenty-four (24) hours after a completion of a ride, a Rider does not identify a specific Donation amount for such ride, or decline to donate by specifying \$0 as the Donation amount, Lyft will assume that the Rider selects the suggested Donation amount for the ride and the Rider’s credit card will automatically be charged that amount. IT IS THE RIDER’S SOLE RESPONSIBILITY, AND NOT THE RESPONSIBILITY OF LYFT, TO DECIDE WHETHER AND HOW MUCH TO DONATE TO THE DRIVER.
- Charges (applicable to California users only). As a Rider in California, You agree that any mandatory amounts charged following a ride (a “Charge”) are due immediately. Lyft reserves the right to determine pricing.
- Administrative Fee. Lyft receives an administrative fee of up to 20% (the “Administrative Fee”) of each (a) Charge (California only) (b) Donation of more than \$0 (users outside California) that a Rider makes to a Driver, net of the \$1 per ride trust & safety fee (the “Trust & Safety Fee”). For the sake of clarity, the Administrative Fee is assessed on a Donation or Charge, as applicable, after the assessment of the Trust & Safety Fee.
- Refunds. The full amount of the Donation or Charge, as applicable (including the Administrative Fee), is charged immediately following completion of such election to the Rider’s authorized credit card and transferred (less the Administrative Fee) to such Driver’s account. All payments made are non-refundable. This no-refund policy shall apply at all times regardless of a Rider’s decision to terminate usage of Lyft, our decision to terminate a Rider’s usage, disruption caused to our Services either planned, accidental or intentional, or any other reason whatsoever.
- Promotional Offers. Lyft, at its sole discretion, may make available promotional offers with different features to any of our customers. These promotional offers, unless made

to You, shall have no bearing whatsoever on Your offer or contract. Lyft may change its Administrative Fee as we deem necessary for our business. We encourage You to check this Agreement periodically if You are interested in keeping abreast of the rate of our Administrative Fee.

- **Cancellation Fee.** In the event that a Rider cancels a ride request on the Lyft Platform more than 5 minutes after such request is made, Rider agrees to pay a “Cancellation Fee” of \$5.
- **Damage Fee.** In the event that a Driver reports to Lyft that a Rider has in any manner materially damaged the Driver’s vehicle, Rider agrees to pay a “Damage Charge” of either \$100 or \$250 depending on the extent of the damage (as determined by Lyft in its sole discretion), which shall constitute full payment for Driver’s cost of repairing or cleaning the vehicle, or otherwise remediating the damage. The Damage Charge shall be transferred to Driver. Lyft reserves the right (but is not obligated) to verify or otherwise require documentation of damages prior to processing the Damage Charge.
- **Facilitation of Payments.** All Donations or Charges, as applicable, shall be facilitated through Stripe, Inc., Lyft’s third-party payment processing service.

## Insurance

Lyft procures an insurance policy that provides Drivers with excess automobile liability insurance up to \$1,000,000 per occurrence. The policy offers excess liability protection over a Driver’s existing insurance while such Driver is transporting Rider(s) on a trip arranged through the Lyft Platform. The policy coverage is limited to liability only and does not provide coverage for collision, comprehensive or wear and tear damage to a Driver’s vehicle. As with any automobile insurance policy, additional insurance terms, limitations, and exclusions apply. We do not procure insurance for, nor are we responsible for, personal belongings left in the car by Driver(s) or Rider(s).

THIS IS AN UNOFFICIAL SUMMARY OF LYFT’S MASTER INSURANCE POLICY AND MAY NOT ALWAYS BE UP-TO-DATE. NONE OF THE STATEMENTS IN THIS SECTION SHOULD BE INTERPRETED AS BINDING AND ARE PROVIDED FOR QUICK REFERENCE ONLY.

## California Public Utilities Commission Disclosure

LYFT FACILITATES RIDES BETWEEN PASSENGERS AND PRIVATE DRIVERS USING THEIR OWN PERSONAL VEHICLES. LYFT IS REQUIRED TO MAINTAIN AN INSURANCE POLICY PROVIDING A MINIMUM OF \$1,000,000 (ONE MILLION

DOLLARS) PER-INCIDENT COVERAGE FOR INCIDENTS INVOLVING VEHICLES AND DRIVERS WHILE THEY ARE USING THE LYFT PLATFORM.

## Eligibility

Our Services are available only to, and may only be used by individuals who can form legally binding contracts under applicable law. Without limiting the foregoing, Our Services are not available to children (persons under the age of 18) or to temporarily or indefinitely terminated Participants. By becoming a Participant, You represent and warrant that You are at least 18 years old. By using the Lyft Platform or the Services, You represent and warrant that You have the right, authority and capacity to enter into this Agreement and to abide by the terms and conditions of this Agreement.

You are the sole authorized user of Your account. You are responsible for maintaining the confidentiality of any password provided by You or Lyft for accessing the Services. You are solely and fully responsible for all activities that occur under Your password or account. Lyft has no control over the use of any User's account and expressly disclaims any liability derived therefrom. Should You suspect that any unauthorized party may be using Your password or account or You suspect any other breach of security, You will contact Us immediately.

## Term and Termination

This Agreement is effective upon use of the Lyft Platform or the Services for new Users and upon the posting dates of any subsequent amendments to this Agreement for all current Users. You may terminate Your participation in the Services at any time, for any reason upon receipt by Us of Your written or email notice of termination. Either You or We may terminate Your participation in the Lyft Platform by removing Your Information at any time, for any or no reason, without explanation, effective upon sending written or email notice to the other party. Upon such termination, We will remove all of Your information from Our servers, though We may retain an archived copy of records We have about You as required by law or for legitimate business purposes. We maintain sole discretion to bar Your use of the Services in the future, for any or no reason. Even after Your participation in the Lyft Platform is terminated, this Agreement will remain in effect.

## Your Information

Your Information is any information You provide, publish or display ("post") to the Lyft Platform or send to other Users in the registration or in any public message area (including, but not limited to the feedback section) or through any email feature ("Your

Information"). Your Information will be stored on computers. You consent to Us using Your Information to create a User account that will allow You to participate in the Services. You are solely responsible for Your Information and Your interactions with other people in the public, and We act only as a passive conduit for Your online posting of Your Information. When You use the Lyft Platform, You agree to provide accurate, current and complete information as prompted by Our registration form and to maintain and timely update Your Information to keep it accurate, current and complete at all times during the Term of the Agreement. You agree that We and other people of the public may rely on Your Information as accurate, current and complete. You acknowledge that if Your Information is untrue, inaccurate, not current or incomplete in any respect, We have the right to terminate this Agreement and Your use of the Services.

By accepting this Agreement, a Driver agrees that We may obtain information about the Driver, including without limitation the Driver's driving record, references and credit information. A Driver hereby authorizes Us to perform a background check on Driver, and further agrees to provide any necessary authorization to facilitate Our access to the Driver's official driving record, references and credit information during the term of the Agreement.

## Social Media and Networking Sites

As part of the functionality of the Lyft Platform, You may be able to login through online accounts You may have with third party service providers (each such account, a "Third Party Account") by either: (i) providing Your Third Party Account login information through the Lyft Platform; or (ii) allowing Lyft to access Your Third Party Account, as is permitted under the applicable terms and conditions that govern Your use of each Third Party Account. You represent that You are entitled to disclose Your Third Party Account login information to Lyft and/or grant Lyft access to Your Third Party Account (including, but not limited to, for use for the purposes described herein), without breach by You of any of the terms and conditions that govern Your use of the applicable Third Party Account and without obligating Lyft to pay any fees or making Lyft subject to any usage limitations imposed by such third party service providers. By granting Lyft access to any Third Party Accounts, You understand that (i) Lyft may access, make available and store (if applicable) any content that You have provided to and stored in Your Third Party Account (the "SNS Content") so that it is available on and through the Lyft Platform via Your account, including without limitation any friend, contacts or following/followed lists, and (ii) Lyft may submit and receive additional information to Your Third Party Account as indicated herein. Unless otherwise specified in this Agreement, all SNS Content, if any, shall be considered to be Your Information and Your Content for purposes of this Agreement. Depending on the Third Party Accounts

You choose and subject to the privacy settings that You have set in such Third Party Accounts, personally identifiable information that You post to Your Third Party Accounts may be available on and through the Lyft Platform. Please note that if a Third Party Account or associated service becomes unavailable or the Lyft Platform's access to such Third Party Account is terminated by the third party service provider, then SNS Content may no longer be available on and through the Lyft Platform. PLEASE NOTE THAT YOUR RELATIONSHIP WITH THE THIRD PARTY SERVICE PROVIDERS ASSOCIATED WITH YOUR THIRD PARTY ACCOUNTS IS GOVERNED SOLELY BY YOUR AGREEMENT(S) WITH SUCH THIRD PARTY SERVICE PROVIDERS. Lyft makes no effort to review any SNS Content for any purpose, including but not limited to, for accuracy, legality or non-infringement, and Lyft is not responsible for any SNS Content.

## Driver Representations and Warranties

By using the Service, a Driver represents, warrants and agrees that:

- Such Driver is at least 23 years of age.
- Such Driver possesses a valid driver's license and is authorized to operate a motor vehicle and has all appropriate licenses, approvals and authority to provide transportation to third parties in all jurisdictions in which such Driver uses the Services.
- Such Driver owns, or has the legal right to operate, the vehicle such Driver uses when accepting Riders, and such vehicle is in good operating condition and meets the industry safety standards and all applicable statutory and state department of motor vehicle requirements for a vehicle of its kind.
- Such Driver is named or scheduled on the insurance policy covering the vehicle such Driver uses when accepting Riders.
- Such Driver has a valid policy of liability insurance (in coverage amounts consistent with all applicable legal requirements) for the operation of such Driver's vehicle to cover any anticipated losses related to such Driver's provision of rides to Riders.
- Such Driver will be solely responsible for any and all liability which results from or is alleged as a result of the operation of the vehicle such Driver uses to transport Riders, including, but not limited to personal injuries, death and property damages.

- In the event of a motor vehicle accident such Driver will be solely responsible for compliance with any applicable statutory or department of motor vehicles requirements, and for all necessary contacts with such Driver's insurance carrier.
- Such Driver will obey all local laws related to the matters set forth herein, and will be solely responsible for any violations of such local laws.
- Such Driver will not make any misrepresentation regarding Lyft, the Lyft Platform, the Services or such Driver's status as a Driver, offer or provide transportation service for profit, as a public carrier or taxi service, charge for rides or otherwise seek non-voluntary compensation from Riders, or engage in any other activity in a manner that is inconsistent with such Driver's obligations under this Agreement.
- Such Driver will not transport a Rider on any trip arranged through the Lyft Platform which is in excess of sixty (60) miles.
- Such Driver will only accept Riders using the vehicle that has been reported to and photographed by Lyft.
- Such Driver will not discriminate or harass anyone on the basis of race, national origin, religion, gender, gender identity, physical or mental disability, medical condition, marital status, age or sexual orientation.

## Restricted Activities

You agree that You will use the Services in a manner consistent with any and all applicable laws and regulations. We reserve the right, but are not obligated to investigate and terminate Your participation in the Lyft Platform if You have misused the Lyft Platform or the Services, or behaved in a way which could be regarded as inappropriate or whose conduct is unlawful or illegal. (i) With respect to Your participation on the Lyft Platform or through the Services, You agree that You will not: (a) Impersonate any person or entity; (b) "Stalk" or otherwise harass any person; (c) Express or imply that any statements You make are endorsed by Us, without Our specific prior written consent; (d) use any robot, spider, site search/retrieval application, or other manual or automatic device or process to retrieve, index, "data mine", or in any way reproduce or circumvent the navigational structure or presentation of the Services or its contents; (e) post, distribute or reproduce in any way any copyrighted material, trademarks, or other proprietary information without obtaining the prior consent of the owner of such proprietary rights; (f) remove any copyright, trademark or other proprietary rights notices contained in the Service; (g) interfere with or disrupt the Services or the Lyft Platform or the servers or networks

connected to the Services or the Lyft Platform; (h) post, email or otherwise transmit any material that contains software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment; (i) forge headers or otherwise manipulate identifiers in order to disguise the origin of any information transmitted through the Service; (j) “frame” or “mirror” any part of the Service, without Our prior written authorization or use meta tags or code or other devices containing any reference to Us or the Services or the Lyft Platform in order to direct any person to any other web site for any purpose; or (k) modify, adapt, sublicense, translate, sell, reverse engineer, decipher, decompile or otherwise disassemble any portion of the Services or any software used on or for the Services or cause others to do so. (ii) You further agree that Your Information and Your interactions on the Lyft Platform shall not: (a) be false, inaccurate or misleading (directly or by omission or failure to update information); (b) infringe any third party's rights, including but not limited to: intellectual property rights, copyright, patent, trademark, trade secret or other proprietary rights or rights of publicity or privacy; (c) violate any law, statute, ordinance or regulation; (d) be defamatory, trade libelous, abusive, obscene, profane, offensive, sexually oriented, threatening, harassing, racially offensive or illegal material; (e) contain any offensive anatomical or sexual references, or offensive sexually suggestive or connotative language; (f) include in Your Information any telephone numbers, street addresses, last names, URL's or E-mail addresses other than where explicitly asked for it in the Your registration and profile section; (g) contain any viruses, Trojan horses, worms, time bombs, cancelbots, easter eggs or other computer programming routines that may damage, detrimentally interfere with, surreptitiously intercept or expropriate any system, data or personal information; (h) create liability for Us or cause Us to become subject to regulation as a transportation carrier or provider of taxi service; or (i) link directly or indirectly to any other web sites. You further agree that You will not transfer, use, or sell Your Lyft account and/or ID to any another party. We reserve the right, but We have no obligation, to reject any Participant that does not comply with these prohibitions.

## Proprietary Rights

Lyft owns and retains ownership in the Lyft Platform, and all intellectual property therein. Contingent upon Your compliance with the terms and conditions of this Agreement, Lyft hereby grants to You a limited, non-transferable, non-exclusive, non-assignable, revocable license to use the Lyft Platform on (a) any Android device that You own or control and/or (b) any iPhone or iPod touch that You own or control and as permitted by the Usage Rules set forth in Section 9.b. of the App Store Terms and Conditions (the “Usage Rules”). This license does not allow You to use the Lyft Platform on any Android device, iPod touch, or iPhone that You do not own or control,

and You may not distribute or make the Lyft Platform available over a network where it could be used by multiple devices at the same time. You may not rent, lease, lend, sell, redistribute or sublicense the Lyft Platform. You may not copy (except as expressly permitted by this license and the Usage Rules), decompile, reverse engineer, disassemble, attempt to derive the source code of, modify, or create derivative works of the Lyft Platform, any updates, or any part thereof (except as and only to the extent any foregoing restriction is prohibited by applicable law). Any attempt to do so is a violation of the rights of Lyft and its licensors. If You breach this restriction, You may be subject to prosecution and damages. The terms of the license will govern any upgrades provided by Lyft that replace and/or supplement the Lyft Platform, unless such upgrade is accompanied by a separate license in which case the terms of that license will govern.

You warrant and represent to Us that Your Information is posted by You and that You are the sole author of Your Information. To enable the Lyft Platform to use Your Information without violating any rights You might have in such information, You automatically grant, and You represent and warrant that You have the right to grant, to Us and other Participants, a non-exclusive, worldwide, perpetual, irrevocable, royalty-free, sub-licensable (through multiple tiers) right to exercise the copyright, publicity, and database rights You have in Your Information and Your Content, and to use, copy, perform, display and distribute such information and content and to prepare derivative works of, or incorporate into other works, such information and content, in any media now known or not currently known, with respect to Your Information. Lyft will only use Your Information and Content in accordance with Our Privacy Policy. You may remove Your Content or Your Information from the Lyft Platform at any time. If You choose to remove Your Content or Your Information, the license granted above will automatically expire, however You acknowledge that Lyft may retain archived copies of Your Content. Lyft does not assert any ownership over Your Content; rather, as between Us and You, subject to the rights granted to Us in these Terms of Service, You retain full ownership of all of Your Content and any intellectual property rights or other proprietary rights associated with Your Content. In addition, other Participants may post copyrighted information on the Lyft Platform, which has copyright protection whether or not it is identified as copyrighted. Except for that information which is in the public domain or for which You have been given permission, You will not copy, modify, publish, transmit, distribute, perform, display, or sell any such proprietary information of other Participants on the Lyft Platform.

## Information Control

Location data provided by the Lyft Platform is for basic location purposes only and is not intended to be relied upon in situations where precise location information is

needed or where erroneous, inaccurate or incomplete location data may lead to death, personal injury, property or environmental damage. Neither Lyft, nor any of its content providers, guarantees the availability, accuracy, completeness, reliability, or timeliness of location data displayed by the Services.

Any of Your Information, including geolocation data, You upload, provide, or post on the Lyft Platform may be accessible to certain Users of the Lyft Platform. We cannot verify or guarantee the accuracy of the information Users provide Us on the Lyft Platform, and We do not control the information provided by other Users that is made available through Our system. Therefore, Lyft cannot and does not confirm each User's purported identity. You may find other User's information to be offensive, harmful, inaccurate, or deceptive. Please use caution and common sense when using the Lyft Platform. Please note that there are also risks of dealing with underage persons or people acting under false pretense. By using the Lyft Platform, You agree to accept such risks and Lyft is not responsible for the acts or omissions of users on the Lyft Platform. In order to help You evaluate with whom You are dealing, Lyft can link to a User's Facebook.com profile if they supply Us with their Facebook.com account information. We also encourage You to communicate directly with each potential Driver or Rider prior to engaging in an arranged transportation service.

## Lyft E-mail and Text Communications

E-mail communications and text messages sent from Us or through Us are designed to make Your Lyft experience more efficient. By becoming a Participant, You specifically agree to accept and consent to receiving e-mail communications and text messages initiated from Us or through Us, which include, without limitation: message notification e-mails, e-mails or text messages informing You about potential available Drivers or Riders and e-mails informing You of promotions We run and emails informing You of new and existing features We provide. Standard text messaging charges applied by Your cell phone carrier will apply to text messages We send. If You change Your mobile phone service provider, the notification service may be deactivated for Your phone number and You may need to re-enroll in the notification service. Lyft reserves the right to cancel the notification service at any time. If You do not wish to receive any of our e-mail communications or text messages, please do not use the Services.

## Intellectual Property

All intellectual property rights on the Lyft Platform and in the Services shall be owned by Us absolutely and in their entirety. These rights include and are not limited to database rights, copyright, design rights (whether registered or unregistered),

trademarks (whether registered or unregistered) and other similar rights wherever existing in the world together with the right to apply for protection of the same. All other trademarks, logos, service marks, company or product names set forth in the Lyft Platform are the property of their respective owners. You acknowledge and agree that any questions, comments, suggestions, ideas, feedback or other information about the Lyft Platform or the Services ("Submissions"), provided by You to Us are non-confidential and shall become the sole property of Lyft. Lyft shall own exclusive rights, including all intellectual property rights, and shall be entitled to the unrestricted use and dissemination of these Submissions for any purpose, commercial or otherwise, without acknowledgment or compensation to You.

## Copyright Complaints and Copyright Agent

Lyft respects the intellectual property of others, and expects Users to do the same. If You believe, in good faith, that any materials on the Services infringe upon Your copyrights, please send the following information to Lyft's Copyright Agent at Lyft Inc., 548 Market St #68514, San Francisco, CA 94104:

1. A description of the copyrighted work that You claim has been infringed, including specific location on the Services where the material You claim is infringed is located. Include enough information to allow Lyft to locate the material, and explain why You think an infringement has taken place;
2. A description of the location where the original or an authorized copy of the copyrighted work exists – for example, the URL (Internet address) where it is posted or the name of the book in which it has been published;
3. Your address, telephone number, and e-mail address;
4. A statement by You that You have a good faith belief that the disputed use is not authorized by the copyright owner, its agent, or the law;
5. A statement by You, made under penalty of perjury, that the information in Your notice is accurate, and that You are the copyright owner or authorized to act on the copyright owner's behalf; and
6. An electronic or physical signature of the owner of the copyright or the person authorized to act on behalf of the owner of the copyright interest.

## Indemnity

You will defend, indemnify, and hold Us and Our officers, directors, employees, agents and any third parties harmless for any losses, costs, liabilities and expenses (including reasonable attorneys' fees) relating to or arising out of Your use of the Service, including: (a) Your breach of this Agreement or the documents it incorporates by reference; or (b) Your violation of any law or the rights of a third party, including, without limitation, Drivers, Riders, other motorists, and pedestrians, as a result of Your own interaction with such third party, (c) any allegation that any materials that You submit to Us or transmit to the Services or to Us infringe or otherwise violate the copyright, trademark, trade secret or other intellectual property or other rights of any third party; (d) Your ownership, use or operation of a motor vehicle or passenger vehicle, including Your provision of rides to Riders; and/or (e) any other activities in connection with the Services. This indemnity shall be applicable without regard to the negligence of any party, including any indemnified person.

## Online Content Disclaimer

Opinions, advice, statements, offers, or other information or content made available through the Services, but not directly by Us, are those of their respective authors, and should not necessarily be relied upon. Such authors are solely responsible for such content. We do not guarantee the accuracy, completeness, or usefulness of any information on the Services and neither do We adopt nor endorse nor are We responsible for the accuracy or reliability of any opinion, advice, or statement made by parties other than Us. Under no circumstances will We be responsible for any loss or damage resulting from anyone's reliance on information or other content posted on the Services, or transmitted to participants. We reserve the right, but We have no obligation, to monitor the materials posted in the public areas of the Services. Notwithstanding this right, You remain solely responsible for the content of the photos, profiles (including Your name, image, and likeness), messages, notes, text, information, music, video, advertisements, listings, and other content (the "Content") that You post in the public areas of the Services and in Your private e-mail messages. We shall have the right to remove any such material that in Our sole opinion violates, or is alleged to violate, the law or this agreement or which might be offensive, illegal, or that might violate the rights, harm, or threaten the safety of Users or others. E-mails sent between You and other participants that are not readily accessible to the general public will be treated by Us as private to the extent required by applicable law.

The Lyft Platform contains (or You may be sent through the Lyft Platform or the Services) links to other web sites ("Third Party Sites") as well as articles, photographs, text, graphics, pictures, designs, music, sound, video, information, applications, software and other content or items belonging to or originating from third parties (the "Third Party Applications, Software or Content"). Such Third Party Sites and Third

Party Applications, Software or Content are not investigated, monitored or checked for accuracy, appropriateness, or completeness by Us, and We are not responsible for any Third Party Sites accessed through the Lyft Platform or any Third Party Applications, Software or Content posted on, available through or installed from the Lyft Platform, including the content, accuracy, offensiveness, opinions, reliability, privacy practices or other policies of or contained in the Third Party Sites or the Third Party Applications, Software or Content. Inclusion of, linking to or permitting the use or installation of any Third Party Site or any Third Party Applications, Software or Content does not imply approval or endorsement thereof by Us. If You decide to leave the Lyft Platform and access the Third Party Sites or to use or install any Third Party Applications, Software or Content, You do so at Your own risk and You should be aware that Our terms and policies no longer govern. You should review the applicable terms and policies, including privacy and data gathering practices, of any web site to which You navigate from the Lyft Platform or relating to any applications You use or install from the Lyft Platform.

## Other Disclaimers

We, Our subsidiaries, officers, directors, employees and our suppliers provide the Lyft Platform and the Services on an “as is” basis and without any warranty or condition, express, implied or statutory. We do not guarantee and do not promise any specific results from use of the Lyft Platform and/or the Services. We, Our subsidiaries, officers, directors, employees and Our suppliers specifically disclaim any implied warranties of title, merchantability, fitness for a particular purpose and non-infringement. Some states do not allow the disclaimer of implied warranties, so the foregoing disclaimer may not apply to You. This warranty gives You specific legal rights and You may also have other legal rights that vary from state to state. We do not warrant that Your use of the Services will be accurate, complete, reliable, current, secure, uninterrupted, always available, or error-free, or will meet Your requirements, that any defects in the Services will be corrected, or that the Services are free of viruses or other harmful components. We disclaim liability for, and no warranty is made with respect to, connectivity and availability. We cannot guarantee that each User is at least the required minimum age, nor do We accept responsibility or liability for any content, communication or other use or access of the Lyft Platform or the Services by persons under the age of 18 in violation of this Agreement. We are not responsible or liable in any manner for any Content posted on the Lyft Platform or in connection with the Service, whether posted or caused by Users of the Lyft Platform, by Lyft, by third parties or by any of the equipment or programming associated with or utilized in the Lyft Platform or the Services. Although We provide rules for User conduct and postings, We do not control and are not responsible for what Users post, transmit or share on the Lyft Platform and are not responsible for any offensive,

inappropriate, obscene, unlawful or otherwise objectionable content You may encounter on the Lyft Platform or in connection with any Content. Lyft is not responsible for the conduct, whether online or offline, of any user of the Lyft Platform or Services. It also is possible for others to obtain personal information about You due to Your use of the Lyft Platform or the Services, and that the recipient may use such information to harass or injure You. We are not responsible for the use of any personal information that You disclose on the Lyft Platform or through the Services.

You are solely responsible for Your interactions with other Users. We reserve the right, but have no obligation, to monitor disputes between You and other Users. Please carefully select the type of information that You post on the Lyft Platform or through the Services or release to others. We disclaim all liability, regardless of the form of action, for the acts or omissions of other Participants or Users (including unauthorized users, or "hackers"). Lyft only offers a venue that enables drivers and riders to match with each other. Lyft does not offer transportation services and Lyft is not a transportation company. We are not involved in the actual transportation provided by Drivers to Riders. As a result, We have no control over the quality or safety of the transportation that occurs as a result of the Service; nor do We have any control over the truth or accuracy of the of Participants' information listed on the Lyft Platform. We cannot ensure that a Driver or Rider is who he or she claims to be or that a Driver or Rider will actually complete an arranged service. We reserve the right to change any and all Content, software and other items used or contained in the Lyft Platform and the Services at any time without notice. Reference to any products, services, processes or other information, by trade name, trademark, manufacturer, supplier or otherwise does not constitute or imply endorsement, sponsorship or recommendation thereof, or any affiliation therewith, by Lyft or the Lyft Platform.

The Lyft Platform and the Services may be temporarily unavailable from time to time for maintenance or other reasons. Lyft assumes no responsibility for any error, omission, interruption, deletion, defect, delay in operation or transmission, communications line failure, theft or destruction or unauthorized access to, or alteration of, User communications. Lyft is not responsible for any technical malfunction or other problems of any telephone network or service, computer systems, servers or providers, computer or mobile phone equipment, software, failure of email or players on account of technical problems or traffic congestion on the Internet, on the Lyft Platform, on any web site or any combination thereof, including injury or damage to User's or to any other person's computer, mobile phone, or other hardware or software, related to or resulting from using or downloading materials in connection with the Web and/or in connection with the Services.

## Limitation of Liability

IN NO EVENT WILL WE, OUR SUBSIDIARIES, OFFICERS, DIRECTORS, EMPLOYEES OR OUR SUPPLIERS, BE LIABLE TO YOU FOR ANY INCIDENTAL, CONSEQUENTIAL, OR INDIRECT DAMAGES (INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR DELETION, CORRUPTION, LOSS OF DATA, LOSS OF PROGRAMS, FAILURE TO STORE ANY INFORMATION OR OTHER CONTENT MAINTAINED OR TRANSMITTED BY OUR SERVICES, SERVICE INTERRUPTIONS, OR FOR THE COST OF PROCUREMENT OF SUBSTITUTE SERVICES) ARISING OUT OF OR IN CONNECTION WITH LYFT, OUR SERVICES OR THIS AGREEMENT (HOWEVER ARISING, INCLUDING NEGLIGENCE) EVEN IF WE OR OUR AGENTS OR REPRESENTATIVES KNOW OR HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. WE DO NOT SCREEN THE PARTICIPANTS USING THE SERVICES IN ANY WAY. AS A RESULT, WE WILL NOT BE LIABLE FOR ANY DAMAGES, DIRECT, INDIRECT, INCIDENTAL AND/OR CONSEQUENTIAL, ARISING OUT OF THE USE OF LYFT OR THE SERVICES, INCLUDING, WITHOUT LIMITATION, TO DAMAGES ARISING OUT OF COMMUNICATING AND/OR MEETING WITH OTHER PARTICIPANTS OF LYFT OR THE SERVICES, OR INTRODUCED TO YOU VIA LYFT OR THE SERVICES. SUCH DAMAGES INCLUDE, WITHOUT LIMITATION, PHYSICAL DAMAGES, BODILY INJURY, DEATH AND OR EMOTIONAL DISTRESS AND DISCOMFORT. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, OUR LIABILITY, AND THE LIABILITY OF OUR SUBSIDIARIES, OFFICERS, DIRECTORS, EMPLOYEES, AND SUPPLIERS, TO YOU OR ANY THIRD PARTIES IN ANY CIRCUMSTANCE IS LIMITED TO \$100. CERTAIN STATE LAWS DO NOT ALLOW LIMITATIONS ON IMPLIED WARRANTIES OR THE EXCLUSION OR LIMITATION OF CERTAIN DAMAGES. IF THESE LAWS APPLY TO YOU, SOME OR ALL OF THE ABOVE DISCLAIMERS, EXCLUSIONS OR LIMITATIONS MAY NOT APPLY TO YOU, AND YOU MAY HAVE ADDITIONAL RIGHTS.

Lyft has no responsibility whatsoever for the actions or conduct of drivers or riders. Lyft has no obligation to intervene in or be involved in any way in disputes that may arise between drivers, riders, or third parties. Responsibility for the decisions you make regarding providing or accepting transportation rest solely with You. It is each rider and driver's responsibility to take reasonable precautions in all actions and interactions with any party they may interact with through use of the services. Lyft may but has no responsibility to screen or otherwise evaluate potential riders or users. Users understand and accept that Lyft has no control over the identity or actions of the riders and drivers, and Lyft requests that users exercise caution and good judgment when using the services. Drivers and riders use the services at their own risk.

## Release

In the event that You have a dispute with one or more Users, You agree to release Lyft (and Our officers, directors, agents, subsidiaries, joint ventures and employees) from claims, demands and damages (actual and consequential) of every kind and nature, known and unknown, suspected and unsuspected, disclosed and undisclosed, arising out of or in any way connected to such disputes with other Users or to Your use of the Lyft Platform or the Services. If You are a California resident, You waive California Civil Code Section 1542, which says: "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which, if known by him must have materially affected his settlement with the debtor."

## Breach

Without limiting other remedies, We may terminate Your Participation, remove Your Information, warn Our community of Your actions, issue a warning, and refuse to provide Our services to You if: (a) You breach this Agreement or the documents it incorporates by reference; (b) We are unable to verify or authenticate any information You provide to Us; (c) We believe that Your actions may cause financial loss or legal liability for You, Our users or Us, or subject Lyft or You or any other User to regulation by any state or local government or regulatory agency; or (d) if We suspect that You have engaged in fraudulent activity in connection with the Lyft Platform or the Services.

## Agreement to Arbitrate All Disputes and Legal Claims

You and We agree that any legal disputes or claims arising out of or related to the Agreement (including but not limited to the use of the Lyft Platform and/or the Services, or the interpretation, enforceability, revocability, or validity of the Agreement, or the arbitrability of any dispute), that cannot be resolved informally shall be submitted to binding arbitration in the state in which the Agreement was performed. The arbitration shall be conducted by the American Arbitration Association under its Commercial Arbitration Rules (a copy of which can be obtained here), or as otherwise mutually agreed by you and we. Any judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. Claims shall be brought within the time required by applicable law. You and we agree that any claim, action or proceeding arising out of or related to the Agreement must be brought in your individual capacity, and not as a plaintiff or class member in any purported class, collective, or representative proceeding. The arbitrator may not consolidate more than one person's claims, and may not otherwise preside over any form of a representative,

collective, or class proceeding. YOU ACKNOWLEDGE AND AGREE THAT YOU AND LYFT ARE EACH WAIVING THE RIGHT TO A TRIAL BY JURY OR TO PARTICIPATE AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS ACTION OR REPRESENTATIVE PROCEEDING.

## Privacy

We do not sell or rent Your Information to third parties for their marketing purposes without Your explicit consent and We only use Your information as described in the Privacy Policy. We view protection of users' privacy as a very important community principle. We understand clearly that You and Your information is one of Our most important assets. We store and process Your information on computers located in the United States that are protected by physical as well as technological security devices. We use third parties to verify and certify Our privacy principles. If You object to Your Information being transferred or used in this way, please do not use or access Our Services.

## Confidentiality

You agree not to use any technical, financial, strategic and other proprietary and confidential information relating to Lyft's business, operations and properties ("Confidential Information") disclosed to You by Lyft for Your own use or for any purpose other than as contemplated herein. You shall not disclose or permit disclosure of any Confidential Information to third parties. You agree to take all reasonable measures to protect the secrecy of and avoid disclosure or use of Confidential Information of Lyft in order to prevent it from falling into the public domain. Notwithstanding the above, You shall not have liability to Lyft with regard to any Confidential Information which You can prove:

was in the public domain at the time it was disclosed by Lyft or has entered the public domain through no fault of Yours; was known to You, without restriction, at the time of disclosure, as demonstrated by files in existence at the time of disclosure; is disclosed with the prior written approval of Lyft; becomes known to You, without restriction, from a source other than Lyft without breach of this Agreement by You and otherwise not in violation of Lyft's rights; or is disclosed pursuant to the order or requirement of a court, administrative agency, or other governmental body; provided, however, that You shall provide prompt notice of such court order or requirement to Lyft to enable Lyft to seek a protective order or otherwise prevent or restrict such disclosure.

## No Agency

You and Lyft are independent contractors, and no agency, partnership, joint venture, employee-employer or franchisor-franchisee relationship is intended or created by this Agreement.

## Notices, Complaints

Except as explicitly stated otherwise, any notices to Lyft shall be given by certified mail, postage prepaid and return receipt requested to Lyft Inc., *548 Market St #68514, San Francisco, CA 94104*, and any notices to You shall be provided to You through the Lyft Platform or given to You via the email address You provide to Lyft during the registration process. In such case, notice shall be deemed given 3 days after the date that the email was sent. Notice shall be deemed given 24 hours after email is sent, unless the sending party is notified that the email address is invalid. Alternatively, We may give You notice by certified mail, postage prepaid and return receipt requested, to the address provided to Lyft during the registration process. In such case, notice shall be deemed given 3 days after the date of mailing.

To resolve a complaint regarding the Service, You should first contact Our Customer Service Department by email at [support@lyft.com](mailto:support@lyft.com). If Our Customer Service Department is not able to resolve Your complaint, You may file a complaint with the California Public Utilities Commission's Consumer Intake Unit by calling 800-894-9444.

## General

This Agreement shall be governed by the laws of the State of California without regard to choice of law principles. If any provision of this Agreement is held to be invalid or unenforceable, such provision shall be struck and the remaining provisions shall be enforced. You agree that this Agreement and all incorporated agreements may be automatically assigned by Lyft, in Our sole discretion in accordance with the "Notices" section of this Agreement. Headings are for reference purposes only and in no way define, limit, construe or describe the scope or extent of such section. Our failure to act with respect to a breach by You or others does not waive Our right to act with respect to subsequent or similar breaches. This Agreement sets forth the entire understanding and agreement between the User and Lyft with respect to the subject matter hereof. Sections referring to Services, Licenses, Liability Limit, Indemnity, and Resolution of Disputes shall survive any termination or expiration of this Agreement.

# Privacy Policy

Lyft is dedicated to protecting Your personal information and informing You about how We use it. This privacy policy applies to transactions and activities and data gathered through the Lyft Platform. Please review this privacy policy periodically as We may revise it without notice. This privacy policy was last revised on September 10, 2012. Each time You use the Lyft Platform or provide Us with information, by doing so You are accepting the practices described in this privacy policy at that time.

## Data We Collect From You

In order to operate the Lyft Platform and to provide You with information about products or services that may be of interest to You, We may “personal information” (i.e. information that could be used to contact You directly (without using the Lyft Platform) such as full name, postal address, phone number, credit/debit card information, or email address) or “demographic information” (i.e. information that You submit, or that We collect, that is not personal information; this may include, but is not limited to, zip code, hometown, gender, username, age/birth date, browsing history information, searching history information, and registration history information. We will also collect the contact information of Your friends, if You choose to connect Your contacts and address book information with Lyft and Your login credentials to Your social network accounts, such as Facebook and Twitter, if You choose to connect those accounts with your Lyft account. You represent and warrant that You have the authority to provide Us with any such contact information. Demographic information is divided into two categories:

“non-public information”, which consists of ride transaction information and one-on-one communications between You and other users of the Lyft Platform; and “public information”, which consists of all other demographic information. Please note that nowhere on the Lyft Platform do We knowingly collect, keep or maintain personal information from children under the age of 18, as We require that all users represent to Us that they are at least 18 years old.

## How We Use Personal Information

We use Your email address and Your other personal information to help Us efficiently operate the Lyft Platform, to contact You in connection with Your transactions and other activities on the Lyft Platform (including, but not limited to, confirmation emails, or important news that could affect Your relationship with Lyft), to forward trip information to You from other Users, to forward trip information from You to other

Users, and to contact You and others to suggest potential matches. We use Your contact information to find and connect with Your friends (when instructed by You). These types of communications are known as “Operational Communications.” In some cases, Operational Communications may also contain commercial messages, such as banner ads and special offers.

To operate the Lyft Platform, including processing Your transactions and supporting Your activities on the Lyft Platform, We may share Your personal information with Our agents, representatives, contractors and service providers so they can provide Us with support services such as email origination, receipt or support services, customer relationship management services, and order fulfillment. We require these entities not to use Your information for any other purpose.

By purchasing, or registering or making reservations for, products or services offered or sponsored by third parties on the Lyft Platform, or electing to receive communications (such as emails or material by mail) or electing to participate in contests, sweepstakes or other programs (such as discount or rewards programs), offered or sponsored by third parties on the Lyft Platform, You consent to Our providing Your personal information to those third parties. Those third parties may use Your personal information in accordance with their own privacy policies. You will need to contact those third parties to instruct them directly regarding Your preferences for the use of Your personal information by them. Additionally, You agree that We may use and disclose all such information so submitted to such third parties in the same manner in which We are entitled to use and disclose any other information You submit to Us.

Any third party with whom We are allowed to share Your personal information is authorized to use Your personal information in accordance with Our contractual arrangements with such third parties and in accordance with their own privacy policies, over which We have no control, and You agree that We are not responsible or liable for any of their actions or omissions. Those who contact You will need to be instructed directly by You regarding Your preferences for the use of Your personal information by them.

## How We Use Demographic Data

We may review all demographic Data. We may use public information to enable other users to search Your profile, to determine whether Your trip details fit other user's requirements, and to communicate with You. We may use demographic information to tailor the Lyft Platform and communications to Your interests. We may also share demographic information with advertisers on an anonymous and aggregated basis (i.e., without telling the advertisers Your identity). One of the reasons We may do this

is to increase the likelihood that Our advertisers' goods and services will appeal to You as a user of the Lyft Platform. Our sharing of demographic information with advertisers is anonymous (i.e., We do not tell advertisers which particular Lyft Users are members of which demographic groups), subject to the rest of this privacy policy. When You respond to an advertisement, however, We ask You to remember that if that ad that is targeted to a demographic group and You decide to give the advertiser Your personal information, then the advertiser may be able to identify You as being a member of that demographic group.

## How to Edit Your Information

Lyft provides You with the ability to access and edit Your personal information. To update Your personal info, click Settings in the Lyft menu. There You can view, update and correct Your account information.

So that We can protect the integrity of sensitive data, there are certain pieces of information, such as Your age, that You cannot alter Yourself.

Our databases automatically update any personal information You edit in Your profile, or that You request We edit. Information transmitted through boards, chats, polls or through any other means remain in Our databases and become the property of Lyft upon submission. Keep this in mind if You decide to communicate personal information through any of these applications.

## Information Retention

To preserve the integrity of Our databases, standard procedure calls for Us to retain information submitted by members for an indefinite length of time. Lyft understands Your submissions as consent to store all Your information in one place for this indefinite length of time, if We so wish. If required by law, as is the case to comply with the Children's Online Privacy Protection Act (COPPA), We will nullify member information by erasing it from Our database. We will also respond to written member requests to nullify account information. Also, by using the Lyft Platform, You do hereby represent and warrant that You understand and agree that all information submitted by You through the Lyft Platform or otherwise to Lyft becomes the property of Lyft and may be used in the sole discretion of Lyft in accordance with this Privacy Policy and the Terms of Use.

## Choice/Opt-Out

Lyft provides Users the opportunity to opt-out of receiving communications from Us and Our partners at the point where We request information about the visitor. Lyft

gives Users the option to remove their information from Our database, to not receive future communications or to no longer receive Our service.

## Special Cases in Which We Share Personal Information

Your personal information may be passed on to a third party in the event of a transfer of ownership or assets, or a bankruptcy. We may also disclose personal information when We determine that such disclosure is necessary to comply with applicable law, to cooperate with law enforcement or to protect the interests or safety of Lyft or other visitors to the Lyft Platform. We also may disclose Your personal information to Our subsidiary and parent companies and businesses, and other affiliated legal entities and businesses with whom We are under common corporate control. Whenever personal information is disclosed under this paragraph, We may also disclose Your demographic information along with it, on a non-anonymous basis. All of Our parent, subsidiary and affiliated legal entities and businesses that receive Your personal information or non-anonymous demographic information from Us will comply with the terms of this privacy policy with respect to their use and disclosure of such information.

## Our Security Precautions

Your Lyft Profile is password-protected so that only You and authorized Lyft employees have access to Your account information. If You have registered for Lyft using Facebook Connect, then Your login and password shall be the same as Your Facebook login and password. In order to maintain this protection, do not give Your password to anyone. Lyft staff will never proactively reach out to You and ask for any personal account information, including Your password. If You share a computer, You should sign out of Your Lyft account and close the browser window before someone else logs on. This will help protect Your information entered on public terminals from disclosure to third parties.

Lyft makes every effort to ensure that Your information is secure on its system. Lyft has staff dedicated to maintaining Our privacy policy as set forth herein and other privacy initiatives, periodically reviewing Web security and making sure that every Lyft employee is aware of Our security practices. Unfortunately, no data transmission over the Internet can be guaranteed to be 100% secure. As a result, Lyft cannot guarantee the security of any information You transmit to Us, and You do so at Your own risk. If You have any further questions on this issue, refer to Lyft Terms of Use. Lyft expressly disclaims any liability that may arise should any other individuals obtain the information You submit to the Lyft Platform.

Lyft has security measures in place to protect against the loss, misuse and alteration of the information under Our control. Your information may be transferred to and maintained on computer networks which may be located outside of the state, province, country or other governmental jurisdiction in which You reside, and the country or jurisdiction in which these computer networks are located may not have privacy laws as protective as the laws in Your country or jurisdiction.

The Lyft Platform may contain links to other web sites. We are of course not responsible for the privacy practices of other web sites. We encourage Our Users to be aware when they leave the Lyft Platform to read the privacy statements of each and every web site that collects personally identifiable information. This Privacy Policy applies solely to information collected by the Lyft Platform.

## Changing our Privacy Policy for Previously Gathered Information

If at any point We decide to use particular personally identifiable information in a manner materially different from that stated at the time it was collected, We will notify Users by way of an email or by providing 30 days notice on the Lyft Platform. We also encourage You to review this privacy policy periodically. By using the Lyft Platform, You do hereby represent and warrant that You have read, understand and agree to all terms of Agreement. Each time You use the Lyft Platform, You agree to all terms set forth in this Agreement and any other policies published by Lyft on the Lyft Platform. Please note that We will continue to have the right to change Our privacy policy and practices, and how We use Your personally identifiable information, without notice, as described in herein, provided that such changes shall only apply to information gathered on or after the date of the change.

## Contacting Lyft

If You have any questions about this privacy statement, the practices of Lyft, or Your dealings with Lyft, You may contact Us at [support@lyft.com](mailto:support@lyft.com).

[Safety](#) · [Jobs](#) · [Press](#) · [Cities](#) · [Blog](#) · [Become a Driver](#) · [Lyft for Good](#) · [Help](#)  
· [Follow @lyft](#) ·

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**BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION**

**IN THE MATTER OF THE PETITION )  
OF THE TRANSPORTATION DIVISION OF )  
THE NEW MEXICO PUBLIC REGULATION )  
COMMISSION FOR ISSUANCE OF )  
ORDER TO SHOW CAUSE AND CEASE )  
AND DESIST AGAINST LYFT, INC )**

**Case No. 14-00124-TR-EN**

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that true and correct copies of the foregoing **Notice of Filing of Additional Exhibit to Staff Petition and Affidavit Requesting Issuance of an Order to Show Cause and Cease and Desist Against Lyft** filed May 19, 2014, was sent on the same day by electronic mail and or regular mail to the parties listed below.

Kristen Sverchek  
General Counsel  
LYFT, INC.  
548 Market St. #68514  
San Francisco, CA 94104

Major Tim C. LaBier  
Dept. of Public Safety  
PO Box 1628  
Santa Fe, NM 87504

The Honorable Gary King  
NM Attorney General  
PO Drawer 1508  
Santa Fe, NM 87504-1508

Earth Class Mail Corporation  
548 Market St.  
San Francisco, CA 94104

Incorporating Services, LTD  
3500 S Dupont HWY  
Dover, DE 19901

**Hand-delivered to:**

Ryan Jerman, Esq.  
NMPRC-Transportation Division  
1120 Paseo de Peralta  
PO Box 1269  
Santa Fe, NM 87501

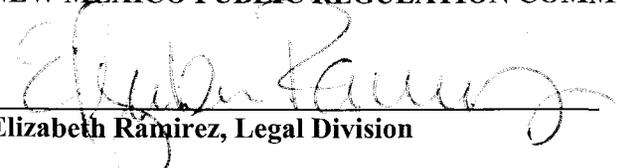
**Hand-delivered to:**

Richard Blumenfeld  
General Counsel  
NMPRC-OGC  
1120 Paseo de Peralta  
PO Box 1269  
Santa Fe, NM 87501

[ryan.jerman@state.nm.us](mailto:ryan.jerman@state.nm.us);  
[Richard.Blumenfeld@state.nm.us](mailto:Richard.Blumenfeld@state.nm.us)  
[tim.labier@state.nm.us](mailto:tim.labier@state.nm.us)  
[lmartinez@nmag.gov](mailto:lmartinez@nmag.gov)

**DATED** this 19th day of May, 2014.

**NEW MEXICO PUBLIC REGULATION COMMISSION**

  
**Elizabeth Ramirez, Legal Division**

**BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION**

IN THE MATTER OF THE PETITION OF THE )  
TRANSPORTATION DIVISION OF THE NEW )  
MEXICO PUBLIC REGULATION COMMISSION )  
FOR ISSUANCE OF AN ORDER TO SHOW CAUSE )  
AND CEASE AND DESIST AGAINST LYFT, INC. )  
\_\_\_\_\_ )

Case No. 14-00124-TR-EN

2014 MAY 23 AM 10 27

NEW MEXICO  
PUBLIC REGULATION  
COMMISSION  
FILED

**ORDER TO SHOW CAUSE AND CEASE AND DESIST**

**THIS MATTER** comes before the New Mexico Public Regulation Commission (Commission) upon the Commission’s Transportation Division Staff’s Petition and Affidavit Requesting Issuance of an Order to Show Cause and Cease and Desist (Staff’s Petition) (attached as Exhibit A) to Lyft, Inc., (Lyft). Being fully informed,

**THE COMMISSION FINDS AND CONCLUDES:**

1. Staff’s Petition, filed on May 5, 2014, asks the Commission to issue an Order to Show Cause and Cease and Desist against Lyft, Inc., which, according to Staff, has been operating a transportation service of persons for hire by motor vehicle in intrastate commerce within New Mexico without any operating authority. More particularly, Staff asks the Commission to order Lyft to show cause why a \$10000.00 fine should not be assessed against it for each of the alleged violations described in Staff’s Petition and to “immediately cease and desist for hire, intrastate operations in the State of New Mexico.” (Staff’s Petition at p.7)

2. Ryan Jimenez, an Investigator in the Commission’s Transportation Division, conducted an investigation of Lyft. (See Jimenez Affidavit, attached to Staff’s Petition as Exhibit 1, at ¶ 3)

3. Staff alleges that Lyft is a motor carrier but is unauthorized to provide transportation services for hire in the state of New Mexico. *Id.*

4. Staff states that the investigation identified probable violations of the New Mexico Motor Carrier Act, NMSA 1978, Section 65-2A-1 *et seq* and the Commission's Motor Transportation Rules, Rule 18.3.1 NMAC through 18.3.15 NMAC. Lyft's alleged violations appear at page 6 of Staff's Petition.

5. The Jimenez Affidavit states, among other things, that Jimenez and other Staff employees used the transportation services of Lyft on at least two occasions and were charged for each trip. (Jimenez Affidavit at pp. 2-4) Staff asserts that the transportation service provided to Jimenez and the other employees were for hire and intrastate within the state of New Mexico. (Staff's Petition at p. 3) The Affidavit also states one Lyft driver said that Lyft had no drug and alcohol policies that he was required to follow. Despite being told by Lyft drivers that the rides were free as part of a promotion, Lyft later informed one of the passengers via e-mail receipts that his credit card had been debited for the service. (Jimenez Affidavit at ¶¶ 6-7)

6. Under the Motor Carrier Act, if the Commission finds after investigation that a provision of the Motor Carrier Act or an order or rule of the Commission is being, has been or is about to be violated, it may issue an order specifying the actual or proposed acts or omissions to act that constitute a violation and require that the violation be discontinued, rectified or prevented. *See* NMSA 1978, Section 65-2A-32(A)(2003).

7. Lyft is hereby put on notice that it may be subject to Commission findings that it committed violations of the Motor Carrier Act and faces administrative fines for each act or omission constituting a violation and for each day that a violation continued. Specifically, NMSA 1978, Section 65-2A-32(B) (2003) provides that:

Order to Show Cause and Cease and Desist  
Case No. 14-00124-TR-EN

**Notwithstanding the existence of any other penalties, the commission may assess an administrative fine of not more than ten thousand dollars (\$10,000) for each violation of a provision of the Motor Carrier Act or of a lawful rule or order of the commission. In case of a continuing violation, each day's violation shall be deemed to be a separate and distinct offense.**

8. Based on Staff's Petition, which includes the Jimenez Affidavit, the Commission finds probable cause that Lyft has violated the following laws:

a. NMSA 1978, §65-2A-7(A)(2013) and Rule 18.3.2.8 NMAC, by providing a transportation service for hire within the state without an appropriate operating authority from the Commission;

b. Rule 18.3.2.8(C)(1) NMAC, by providing taxicab services without a certificate or permit;

c. NMSA 1978, §65-2A-18(A)(2013), (B)(2013), and (F)(2003) and Rules 18.3.3.8 and 18.3.3.10(C) NMAC, by operating as a motor carrier on the highways of the state without having filed with the Commission proof of financial responsibility in the forms and amounts prescribed by the Commission;

d. NMSA 1978, §65-2A-19(2013), and Rules 18.3.4.2, 18.3.4.10, and 18.3.4.12 NMAC, by not adhering to safety requirements; and

e. NMSA 1978, §65-2A-24(B)(2013), by failing to comply with the Motor Carrier Act and the Commission's Motor Transportation Rules, despite the contractual relationship, if any, between Lyft and its New Mexico drivers.

9. Under §65-2A-32(A), the Commission should order Lyft to cease and desist from operating as a motor carrier in New Mexico.

10. The Commission should order Lyft to answer Staff's Petition and to show cause why it should not be fined up to \$10000.00 for each of the violations alleged in Staff's Petition.

11. As noted in ¶1 of Staff's Petition, the Commission has jurisdiction over Lyft and the subject matter of Staff's Petition under Article XI, § 2 of the New Mexico Constitution, the Motor Carrier Act (NMSA 1978, §§ 65-2A-4(A)(7)(2013) and 65-2A-7(A)(2013)), and the Public Regulation Commission Act (NMSA 1978, §§ 8-8-4(A)(1998) and 8-8-4(B)(5)(1998), (B)(7)(1998), and (B)(10)(1998)). Thus, there are reasonable grounds to support the issuance of an Order to Show Cause and Cease and Desist.

**IT IS THEREFORE ORDERED:**

A. On the basis of the foregoing, the Commission orders Lyft, Inc., to file an Answer no later than June 2, 2014, addressing each allegation in Staff's Petition and showing cause: 1) why the Commission should not assess an administrative fine of not more than \$10,000.00 for each violation of the Motor Carrier Act, NMSA 1978, §65-2A-1 *et seq.* or of rules and orders of the Commission and, in the instance of a continuing violation, why each day of that continuing violation shall not be a separate and distinct offense; and 2) why Lyft's motor carrier transportation services should not be halted, discontinued, prevented, or enjoined.

B. Lyft shall serve its Answer on all persons listed on the Certificate of Service that is attached to this Order.

C. Lyft shall immediately cease and desist from providing motor carrier transportation services until it comes into compliance with the Motor Carrier Act and the Commission's rules and orders.

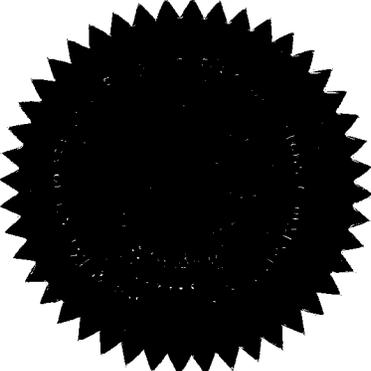
D. Through this Order, Lyft is notified that failure to comply with this Order to Show Cause and Cease and Desist may subject Lyft to additional penalties as allowed by law.

E. This Order shall be effective immediately.

F. A copy of this Order shall be e-mailed to all parties on the attached Certificate of Service if their e-mail addresses are known, or by regular mail if their e-mail addresses are not known.

ISSUED under the Seal of the Commission at Santa Fe, New Mexico, this 21st day of  
May, 2014.

NEW MEXICO PUBLIC REGULATION COMMISSION

  
*Theresa Becenti-Aguilar*  
\_\_\_\_\_  
THERESA BECENTI-AGUILAR, CHAIR

*Valerie Espinoza*  
\_\_\_\_\_  
VALERIE ESPINOZA, VICE CHAIR

*Karen L. Montoya*  
\_\_\_\_\_  
KAREN L. MONTOYA, COMMISSIONER

*Patrick H. Lyons*  
\_\_\_\_\_  
PATRICK H. LYONS, COMMISSIONER

*Ben L. Hall*  
\_\_\_\_\_  
BEN L. HALL, COMMISSIONER

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF THE PETITION )  
OF TRANSPORTATION DIVISION OF )  
THE NEW MEXICO PUBLIC REGULATION )  
COMMISSION FOR ISSUANCE OF AN )  
ORDER TO SHOW CAUSE AND CEASE )  
AND DESIST AGAINST LYFT, INC. )

Case No. 14-00124-TR-EN

NEW MEXICO  
PUBLIC REGULATION  
COMMISSION  
FILED  
2014 MAY 5 PM 4 28

STAFF PETITION AND AFFIDAVIT REQUESTING ISSUANCE OF  
AN ORDER TO SHOW CAUSE AND CEASE AND DESIST AGAINST LYFT

The Transportation Division ("Staff") of the New Mexico Public Regulation Commission ("Commission") through Staff Counsel, petitions the Commission to issue an order commanding Lyft, Inc. ("Lyft"), to show cause why it should not be fined by the Commission for violations of the New Mexico Motor Carrier Act, NMSA 1978, § 65-2A-1 et seq., and the Motor Transportation Rules of the Commission 18.3.1 NMAC through 18.3.15 NMAC. Staff further requests that the Commission issue an order to cease and desist against Lyft, Inc. requiring that Lyft, Inc., immediately stop operating in the State of New Mexico. As grounds for this Petition, Staff states the following:

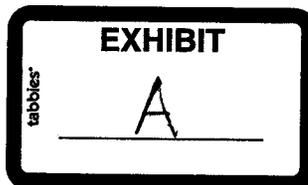
JURISDICTION

1. The Commission has personal jurisdiction over Lyft and subject matter jurisdiction over this Petition pursuant to the; New Mexico Constitution, Article XI, § 2<sup>1</sup>, the New Mexico Motor Carrier Act, NMSA 1978, § 65-2A-7 A<sup>2</sup>, NMSA 1978, § 65-2A-4 A(7)<sup>3</sup> and

<sup>1</sup> "The [Commission] shall have responsibility for regulating . . . transportation companies, including common and contract carriers . . . in such manner as the legislature shall provide."

<sup>2</sup> "No person shall offer or provide a transportation service for hire within the state without first obtaining an appropriate operating authority from the Commission. Every motor carrier providing a transportation service shall meet and comply with the requirements of the Motor Carrier Act and the lawfully adopted rules and orders of the Commission."

<sup>3</sup> "In accordance with the Motor Carrier Act, the [Commission] shall. . . (7) have jurisdiction to determine any matter under the Motor Carrier Act relating to any transportation service carrier that has not obtained an appropriate operating authority from the [Commission]."



the Public Regulation Commission Act , NMSA 1978, § 8-8-4 A<sup>4</sup> and NMSA 1978, §§ 8-8-4 B(5)<sup>5</sup>, -(7)<sup>6</sup>, and -(10)<sup>7</sup>.

2. The New Mexico Motor Carrier Act defines a “motor carrier” or “carrier” to mean “a person offering or providing transportation of persons, property or household goods for hire by motor vehicle, whether in intrastate or interstate commerce;” NMSA 1978, § 65-2A-3 FF.

### **BACKGROUND**

3. On April 25, 2014, Mr. Ryan Jerman, Director of the Transportation Division of the Commission directed Mr. Ryan A. Jimenez, Staff Investigator to conduct an investigation of Lyft based on information that Mr. Jerman had learned that Lyft was operating as a motor carrier in the Albuquerque area.

4. Mr. Jimenez conducted an investigation on April 29, 2014 and prepared an affidavit which is attached to, and made a part of, this Petition as Exhibit 1.

5. Upon information and belief, Lyft is a domestic corporation in the State of Delaware and is registered as a foreign corporation in the State of California<sup>8</sup>.

6. Upon information and belief, Lyft is not registered as a foreign corporation in the State of New Mexico<sup>9</sup>.

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<sup>4</sup> “The [Commission] shall administer and enforce the laws with which it is charged and has every power conferred by law.”

<sup>5</sup> “The [Commission] may: . . . (5) take administrative action by issuing orders not inconsistent with law to assure implementation of and compliance with the provisions of law for which the [Commission] is responsible and to enforce those orders by appropriate administrative action and court proceedings;”

<sup>6</sup> “The [Commission] may: . . . (7) conduct investigations as necessary to carry out the [Commission’s] operations or the provision of services to the citizens of New Mexico;”

<sup>7</sup> “The [Commission] may: . . . (10) adopt such reasonable administrative, regulatory and procedural rules as may be necessary or appropriate to carry out its power and duties;”

<sup>8</sup> *See*, online documents from the States of Delaware and California attached to Mr. Jimenez’s affidavit.

<sup>9</sup> *See*, online document from the New Mexico Office of the Secretary of State, Corporations Bureau attached to Mr. Jimenez’s affidavit.

7. As described in the affidavit of Mr. Jimenez, Messrs. Jerman and Jimenez utilized the transportation services of Lyft on at least two occasions on April 29, 2014 and were charged for each trip. The transportation service provided to Messrs. Jerman and Jimenez were for hire and intrastate within the State of New Mexico.

#### RELEVANT STATUTES AND RULES

8. Under the Motor Carrier Act:

No person shall offer or provide a transportation service for hire within the state without first obtaining an appropriate operating authority from the [Commission]. Every motor carrier providing a transportation service shall meet and comply with the requirements of the Motor Carrier Act and the lawfully adopted rules and orders of the [Commission].

NMSA 1978, 65-2A-7 A.

9. Under the Motor Carrier Act:

A. The [Commission] shall prescribe minimum requirements for financial responsibility for all motor carriers.

B. A motor carrier shall not operate on the highways of this state without having filed with the [Commission] proof of financial responsibility in the form and amount as the [Commission] shall by rule prescribe.

NMSA 1978, § 65-2A-18 A.

10. Under the Motor Carrier Act:

The [Commission] shall prescribe safety requirements for drivers and for motor vehicles weighing twenty-six thousand pounds or less or carrying fifteen or fewer persons, including the driver, used by intrastate motor carriers operating in this state. The [Commission] may prescribe additional requirements relating to safety, including driver safety training programs, vehicle preventative maintenance programs, inquiries regarding the safety of the motor vehicles and drivers employed by a motor carrier, and the appropriateness of the motor vehicles and equipment for the transportation services to be provided by the motor carrier.

NMSA 1978, § 65-2A-19 B.

11. Under the Motor Carrier Act:

If the [Commission] finds after investigation that a provision of the Motor Carrier Act or an order or rule of the [Commission] is being, has been or is about to be violated, it may issue an order specifying the actual or proposed acts or omissions to act that constitute a violation and require that the violation be discontinued, rectified or prevented.

NMSA 1978, § 65-2A-32 A.

12. Under the Motor Carrier Act:

Notwithstanding the existence of any other penalties, the [Commission] may assess an administrative fine of not more than ten thousand dollars (\$10,000) for each violation of a provision of the Motor Carrier Act or a lawful rule or order of the [Commission]. In case of a continuing violation, each day's violation shall be deemed to be a separate and distinct offense.

NMSA 1978, § 65-2A-32 B.

13. Under the Motor Carrier Act:

A motor carrier may use employed or contract drivers or taxicab association member drivers in the provision of a transportation service. Regardless of the provisions of any written or oral agreement between a motor carrier and a contract driver or taxicab association member driver, motor carriers providing transportation services that use contract drivers or taxicab association member drivers remain fully responsible to the [Commission] for complying with all provisions of the Motor Carrier Act and [Commission] rules applicable to transportation service carriers.

NMSA 1978, § 65-2A-24 B.

14. Under the Motor Transportation Rules of the Commission:

The director shall determine which type of operating authority is appropriate based on the attributes of the type of service the applicant proposes to provide. The [Commission] may at any time determine whether an operating authority is appropriate for the type of service a motor carrier is providing.

\* \* \*

18.3.2.8 NMAC.

15. Under the Motor Transportation Rules of the Commission:

Every motor carrier must file proof of financial responsibility with the [Commission].

18.3.3.8 NMAC.

16. Under the Motor Transportation Rules of the Commission, acceptable forms of proof of financial responsibility are a Uniform Filing Form E, a surety bond, or a certified statement from the Superintendent of Insurance that the motor carrier has met all requirements to be self-insured. 18.3.3.8 A(1) NMAC.

17. Under the Motor Transportation Rules of the Commission:

Motor carries of persons providing service in vehicles with a seating capacity of six (6) persons or fewer, excluding the driver, must maintain a combined single-limit public liability insurance policy of at least one million dollars (\$1,000,000) per occurrence for bodily injury to or death of all persons injured or killed or property damage.

18.3.3.10 C NMAC.

18. Under the Motor Transportation Rules of the Commission, the Commission has prescribed drug and alcohol testing requirements applicable to all motor carrier drivers subject to the jurisdiction of the Commission. 18.3.4.2 NMAC and 18.3.4.10 A NMAC.

19. Under the Motor Transportation Rules of the Commission, the Commission has prescribed driver qualifications that include, among other things, general qualifications of drivers, annual inquiry and review of driving record, physical qualifications for drivers, medical examinations and certificate of physical examination applicable to all motor carrier drivers subject to the jurisdiction of the Commission. 18.3.4.2 NMAC and 18.3.4.12 B NMAC.

20. Under the Motor Transportation Rules of the Commission, the Commission has prescribed equipment and inspection, repair, and maintenance requirements applicable to all motor vehicles operated by the motor carrier in the course of its operations. 18.3.4.2 NMAC, 18.3.4.12 D NMAC, and 18.3.4.12 E NMAC.

## ALLEGATIONS

21. Staff repeats and re-alleges Paragraphs 1 through 16 as if more fully set forth here, and also incorporates Exhibit 1 by reference.

22. Upon information and belief, Lyft operates an on-line application whereby prospective passengers can solicit, ride, and pay for transportation services. These transportation services are provided by drivers under a contractual relationship with Lyft.

23. Upon information and belief, in spite of the contractual relationship between Lyft and its New Mexico drivers, the Motor Carrier Act assigns responsibility for compliance with the Motor Carrier Act and the Motor Transportation rules to the motor carrier, Lyft. NMSA 1978, § 65-2A-24 B.

24. Upon information and belief, Lyft performed transportation of persons for hire by motor vehicle in intrastate commerce as set forth in NMSA 1978, § 65-2A-3 FF on at least two (2) occasions as described in Exhibit 1 and contrary to NMSA 1978, § 65-2A-7 A.

25. Upon information and belief, Lyft has not complied with the financial responsibility requirements set forth above in NMSA 1978, § 65-2A-7 A, and 18.3.3.8 A(1) NMAC, and 18.3.3.10 C NMAC.

26. Upon information and belief, Lyft has not complied with the safety requirements applicable to drives and equipment set forth above in NMSA 1978, § 65-2A-18 A, 18.3.4.2 NMAC, 18.3.4.10 A NMAC, 18.3.4.12 B NMAC, 18.3.4.12 D NMAC, and 18.3.4.12 E NMAC.

27. For all the reasons stated above, probable cause exists that Lyfts' conduct has violated the Motor Carrier Act, and the Motor Transportation Rules of the Commission and such conduct is contrary to the public interest.

28. To the extent Lyft cannot demonstrate compliance with each violation of the Motor Carrier Act and Motor Transportation Rules of the Commission Staff has alleged, Staff seeks cumulative penalties for each statutory or rule violation up to ten thousand dollars (\$10,000) per violation as found by the Commission.

29. Staff also seeks an Order from the Commission commanding Lyft to immediately cease and desist for hire, intrastate operations in the State of New Mexico.

**WHEREFORE**, Staff respectfully requests that the Commission issue an Order:

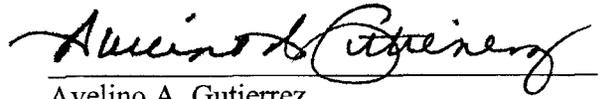
A. Opening a docket in this matter, find probable cause that violations of the Motor Carrier Act and the Motor Transportation Rules of the Commission have occurred as described above and commanding Lyft to show cause in writing why it should not be fined by the Commission for violations of the New Mexico Motor Carrier Act, NMSA 1978, § 65-2A-1 et seq., and the Motor Transportation Rules of the Commission, 18.3.1 NMAC through 18.3.15 NMAC;

B. Commanding Lyft to immediately cease and desist for hire, intrastate operations in the State of New Mexico; and,

C. For such other and further relief as the Commission finds just and reasonable.

Respectfully submitted,

Transportation Division  
New Mexico Public Regulation Commission



Avelino A. Gutierrez  
Staff Counsel/Legal Division  
New Mexico Public Regulation Commission  
P.O. Box 1269  
Santa Fe, NM 87504-1269  
(505) 827-4565  
avelino.gutierrez@state.nm.us

## **EXHIBIT 1**

### **BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION**

**IN THE MATTER OF STAFF'S PETITION  
FOR ORDER TO SHOW CAUSE WHY  
LYFT IS NOT IN VIOLATION OF THE MOTOR  
CARRIER ACT AND PRC RULES AND FOR OTHER  
RELIEF.**

**Case No. 04-14-025**

### **AFFIDAVIT**

**I, Ryan A. Jimenez, first duly sworn upon oath state the following:**

1. I am employed by the New Mexico Public Regulation Commission as an Investigator for the Transportation Division.
2. On April 25, 2014, Mr. Ryan Jerman, Director of the Transportation Division of the Commission, requested that I conduct an investigation of Lyft, a motor carrier that is not in possession of an authority from the Commission to provide transportation services to and from points and places in the State of New Mexico.
3. Through an investigation that was conducted on April 29, 2014 by NMPRC Investigator Ryan Jimenez, it was found that Lyft was providing transportation services for hire without authorization from the NMPRC thus being in violation of multiple NMPRC Rules and State Statutes.
4. After confirmation from the New Mexico Secretary of State Corporations Bureau, Lyft is not a registered entity in the State of New Mexico nor are they registered as a Foreign Entity to conduct business within New Mexico.
5. Per the Lyft User Agreement it states the following: You (Driver) and Lyft are independent contractors, and no agency, partnership, joint venture, employee-employer or franchisor-franchisee relationship is intended or created by this agreement (Please refer to Exhibit C). Per this agreement Lyft is in violation of:

**65-2A-24. Motor Vehicle Leases; Driver Contracts**

A. An intrastate motor carrier shall not lease a motor vehicle or operate a leased motor vehicle in the course of its transportation service except as provided by commission rule. The commission may approve a motor vehicle lease without notice or a public hearing.

B. A motor carrier may use employed or contract drivers or taxicab association member drivers in the provision of a transportation service. Regardless of the provisions of any written or oral agreement between a motor carrier and a contract driver or taxicab association member driver, motor carriers providing transportation services that use contract drivers or taxicab association member drivers remain fully responsible to the commission for complying with all provisions of the Motor Carrier Act and commission rules applicable to transportation service carriers.

C. Motor carriers providing intrastate transportation services that use contract drivers or taxicab association member drivers shall maintain, at their principal places of business within the state, a current written agreement with each such driver. No agreement with any contract driver or taxicab association member driver shall contain any provision contrary to a provision of the Motor Carrier Act or a rule of the commission. Each written agreement shall contain a clause that requires the contract driver or taxicab association member driver to adhere to all provisions of the Motor Carrier Act and to all commission rules applicable to transportation service carriers.

History: Laws 2003, ch. 359, § 24; 2013, ch. 73, § 22; 2013, ch. 77, § 22.

6. On April 29, 2013, I, together with Investigations Manager, Paul Montoya and Transportation Director, Ryan Jerman conducted a scheduled ride with A Lyft Operator (EXHIBIT A) Director Jerman and I scheduled to be picked up at 1012 Eubank Boulevard NE, Albuquerque NM at approximately 1:10 p.m. (Please note all arrangement were made through the Lyft Application that was downloaded through Director Jerman's personal phone.)

**Affidavit on Petition for Order to Show Cause**

**Page-2**

We scheduled to have the Lyft driver take us to 6904 Central Avenue NE, Albuquerque NM. Upon pick up the driver advised Director Jerman and I that he has been a Lyft driver since Friday, which has only been four days. He advised us that he thought there was least a "couple dozen drivers" hired currently by Lyft but the majority of them work at night. He applied through the Lyft Application process by submitting some personal information, including background information, driving record, insurance information and vehicle information. The driver was then asked how the "donation process" worked through the payment process. The driver then advised us that due to a promotion process the ride was free for several weeks until May. I then asked the driver how he was paid. He then told me that he was paid by the company and any tips that were submitted. I then asked if there was any drug and alcohol policies the Operators had to abide by, he then answered there were not. Once we arrived at our destination the Operator advised us that he inputs this information to his system and we were free to go. He advised us that we would receive a receipt via e-mail within a few minutes for our "free ride". The receipt confirmed Director Jerman was charged ten dollars for a 3 mile ride.

7. On April 29, 2013, I, together with NMPRC Transportation Director, Ryan Jerman arranged a ride from the Albuquerque Sunport to 2070 Menaul Blvd NE, Albuquerque NM (EXHIBIT B).

The Lyft Application advised Director Jerman that the Lyft driver would be at our location in approximately 5 minutes. The Lyft driver was at our location at approximately 2:34 p.m. The driver advised us that he had been driving for only about four or five days as a Lyft driver, for supplemental income to his music career. I asked the driver as to the process of becoming a driver for Lyft.

He advised me that he went through a hiring process through the application which included a vehicle inspection. I then asked him if he has to do any follow up inspections for his vehicle, for

instance an annual inspection. He advised me that he was never told this, and did not know. I then asked the driver if he took my credit card or if I had to pay cash for our ride. He then explained to me that the ride was free for a promotional period until May, but he gets paid by the Lyft company \$1.85 per mile and shares any tips that are submitted. Lyft will take 20% of this total cost and the driver gets the remaining 80%. We then arrived at our destination where the driver informed us that he had to input information to the system then we would receive a receipt for our "free" ride. Director Jerman then received an e-mail with his receipt that did verify his credit card was debited \$19 dollars for a 6 mile ride.

8. Based on the affirmed events, this Investigator is confident that the following Provisions of the Motor Carrier Act and New Mexico Transportation Rules were violated by Lyft.

9. **65-2A-3. Definitions**

N. "contract driver" means a person who contracts with a motor carrier as an independent contractor to drive a vehicle pursuant to an operating authority issued to the motor carrier.

S. "for hire" means that transportation is offered or provided to the public for remuneration, compensation or reward of any kind, paid or promised, either directly or indirectly;

FF. "motor carrier" or "carrier" means a person offering or providing transportation of persons, property or household goods for hire by motor vehicle, whether in intrastate or interstate commerce.

10. **65-2A-7. Operating Authorities in General.**

A. No person shall offer or provide a transportation service for hire within the state without first obtaining an appropriate operating authority from the commission. Every motor carrier providing a transportation service shall meet and comply with the requirements of the Motor Carrier Act and the lawfully adopted rules and orders of the commission.

B. A certificate, permit or warrant, or a change in a certificate or permit, shall be effective from the date issued by the commission and shall remain in effect until canceled, revoked, suspended or amended.

C. A motor carrier shall carry a copy of its operating authority in each motor vehicle it operates in New Mexico.

D. A certificated service carrier shall render reasonably continuous and adequate service as the commission may by rule prescribe.

**11. 65-2A-18. Financial Responsibility.**

A. The commission shall prescribe minimum requirements for financial responsibility for all motor carriers.

B. A motor carrier shall not operate on the highways of this state without having filed with the commission proof of financial responsibility in the form and amount as the commission shall by rule prescribe.

**12. 65-2A-19 - Safety Requirements for Motor Vehicles and Drivers used in Compensated Transportation.**

B. The commission shall prescribe safety requirements for drivers and for motor vehicles weighing twenty-six thousand pounds or less or carrying fifteen or fewer persons, including the driver, used by intrastate motor carriers operating in this state. The commission may prescribe additional requirements related to safety, including driver safety training programs, vehicle preventive maintenance programs, inquiries regarding the safety of the motor vehicles and drivers employed by a motor carrier, and the appropriateness of the motor vehicles and equipment for the transportation services to be provided by the motor carrier.

**13. New Mexico State Statute 65-2A-32. (Administrative Penalties)**

A. If the commission finds after investigation that a provision of the Motor Carrier Act [65-2A-1 NMSA 1978] or an order or rule of the commission is being, has been or is about to be violated, it may issue an order specifying the actual or proposed acts or omissions to act that constitute a violation and require that the violation be discontinued, rectified or prevented.

B. Notwithstanding the existence of any other penalties, the commission may assess an administrative fine of not more than ten thousand dollars (\$10,000) for each violation of a provision of the Motor Carrier Act or of a lawful rule or order of the commission. In case of a continuing violation, each day's violation shall be deemed to be a separate and distinct offense.

C. Notwithstanding the existence of other penalties, the commission may assess an administrative fine of not more than ten thousand dollars (\$10,000) against a person knowingly using a motor carrier not properly authorized by the commission.

D. All penalties accruing under the Motor Carrier Act shall be cumulative, and a suit for recovery of one penalty shall not be a bar to or affect the recovery of any other penalty or be a bar to any criminal prosecution under the Motor Carrier Act.

**14. New Mexico Motor Transportation Rule 18.3.2.8 NMAC Operating Authority**

**Required**

No person shall provide any of the following compensated transportation services in New Mexico without having first obtained from the commission the operating authority required for the particular type of service to be rendered. The director shall determine which type of operating authority is appropriate based on the attributes of the type of service the applicant proposes to provide. The commission may at any time determine whether an operating authority

is appropriate for the type of service a motor carrier is providing.

[ The rule also makes clear that a Certificate or Permit is required for taxi Cab service:

18.3.2.8 C (1) NMAC ]

**15. 65-2A-18 - Financial Responsibility.**

A. The commission shall prescribe minimum requirements for financial responsibility for all motor carriers, including incidental carriers pursuant to this section. Rules regarding financial responsibility of incidental carriers shall be adopted by July 1, 2006 by the commission, and implementation of the financial responsibility requirements for incidental carriers shall begin on July 1, 2006.

B. A motor carrier or incidental carrier shall not operate on the highways of this state without having filed with the commission proof of financial responsibility in the form and amount as the commission shall by rule prescribe. The maximum amount of financial responsibility, as determined by the commission, for incidental carriers shall not exceed that required of other motor carriers.

16. The above violations are documented in this Investigator's Affidavit, which consists of carrier's records, interviews and evidence related to this investigation.

**FURTHER AFFIANT SAYETH NAUGHT.**

Signed and sworn to before me on this 5<sup>TH</sup> day of May 2014, by Ryan A. Jimenez.

  
\_\_\_\_\_  
Ryan A. Jimenez  
Investigator, Transportation Division

Notary Public

  
\_\_\_\_\_  
Veronica M. Ortiz

My Commission Expires:

12-06-2016

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF THE PETITION )  
OF TRANSPORTATION DIVISION OF )  
THE NEW MEXICO PUBLIC REGULATION )  
COMMISSION FOR ISSUANCE OF AN ) **Case No. 14-00124-TR-EN**  
ORDER TO SHOW CAUSE AND CEASE )  
AND DESIST AGAINST LYFT, INC. )  
\_\_\_\_\_ )

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that true and correct copies of the foregoing Order Granting STAFF PETITION AND AFFIDAVIT REQUESTING ISSUANCE OF AN ORDER TO SHOW CAUSE AND CASE AND DESIST AGAINST LYFT filed May 05, 2014, was sent on May 05, 2014 26, 2014, by electronic mail and or regular mail to the parties listed below.

Kristin Sverchek  
General Counsel  
LYFT, INC.  
548 Market St # 68514  
San Francisco, CA 94104

The Honorable Gary King  
NM Attorney General  
PO Drawer 1508  
Santa Fe, NM 87504-1508

Earth Class Mail Corporation  
548 Market St  
San Francisco, CA 94104-5401

Major Tim C. LaBier  
Dept. of Public Safety  
PO Box 1628  
Santa Fe, NM 87504

Incorporating Services, LTD  
3500 S Dupont HWY  
Dover, DE 19901

**Hand-delivered to:**  
Ryan Jerman, Esq.  
NMPRC-Transportation Division  
1120 Paseo de Peralta  
PO Box 1269  
Santa Fe, NM 87501

**Hand-delivered to:**  
Michael Smith  
General Counsel  
NMPRC-OGC  
1120 Paseo de Peralta  
PO Box 1269  
Santa Fe, NM 87501

[ryan.jerman@state.nm.us](mailto:ryan.jerman@state.nm.us)  
[lmartinez@nmag.gov](mailto:lmartinez@nmag.gov)  
[tim.labier@state.nm.us](mailto:tim.labier@state.nm.us)  
[Michael.Smith@state.nm.us](mailto:Michael.Smith@state.nm.us)

DATED this 05th day of May 2014.

NEW MEXICO PUBLIC REGULATION COMMISSION

*Annisia M. Ortiz*

Annisia M. Ortiz, Business Operations Specialist-O

**BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION**

IN THE MATTER OF THE PETITION OF THE )  
TRANSPORTATION DIVISION OF THE NEW )  
MEXICO PUBLIC REGULATION )  
COMMISSION FOR ISSUANCE OF ORDER TO )  
SHOW CAUSE AND CEASE AND DESIST )  
AGAINST LYFT, INC. )  
\_\_\_\_\_ )

Case No. 14-00124-TR-EN

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that true and correct copies of the foregoing Order to Show Cause and Cease and Desist issued May 21, 2014, was sent to the following on May 23, 2014 as indicated below:

**Via Certified Mail-Return Receipt Requested**

Kristen Sverchek, Esq.  
General Counsel  
LYFT, INC.  
548 Market St. #68514  
San Francisco, CA 94104

Joseph Thompson, Esq.  
1941 Indian School Rd, NW  
PO Box 22082  
Albuquerque, NM 87104-2313

Nann Winter, Esq.  
Stelzner Winter Warburton Flores,  
Sanchez & Dawes, PA  
302 Eighth St, NW #200  
PO Box 528  
Albuquerque, NM 87102-3024

Major Tim C. LaBier  
Dept. of Public Safety  
PO Box 1628  
Santa Fe, NM 87504

**Hand-delivered to:**  
Ryan Jerman, Esq.  
Director-Transp. Div NMPRC  
1120 Paseo de Peralta  
PO Box 1269  
Santa Fe, NM 87501

**Hand-delivered to:**  
Richard Blumenfeld  
Associate General Counsel  
NMPRC-OGC  
1120 Paseo de Peralta  
PO Box 1269  
Santa Fe, NM 87501

**Via Email:**

Joseph Thompson  
Nann Winter  
Tim C. LaBier  
Ryan Jerman-PRC  
Rick Blumenfeld-PRC

Thompson.consulting@gmail.com;  
nwinter@stelznerlaw.com;  
Tim.Labier@state.nm.us;  
Ryan.Jerman@state.nm.us;  
Richard.Blumenfeld@state.nm.us;

DATED this 23rd day of May, 2014.

NEW MEXICO PUBLIC REGULATION COMMISSION

  
\_\_\_\_\_  
Cecilia Rios, Law Clerk

# NEW MEXICO PUBLIC REGULATION COMMISSION

## COMMISSIONERS

DISTRICT 1 KAREN L. MONTOYA  
DISTRICT 2 PATRICK H. LYONS  
DISTRICT 3 VALERIE ESPINOZA, VICE CHAIR  
DISTRICT 4 THERESA BECENTI-AGUILAR, CHAIR  
DISTRICT 5 BEN L. HALL



P.O. Box 1269  
1120 Paseo de Peralta  
Santa Fe, NM 87504-1269

## CHIEF OF STAFF

S. Vincent Martinez

## OFFICE OF GENERAL COUNSEL

Michael C. Smith, General Counsel  
505-827-6947

**CERTIFIED MAIL –  
RETURN RECEIPT REQUESTED**

May 23, 2014

Ms. Kristin Sverchek  
General Counsel  
LYFT, INC.  
548 Market St. #68514  
San Francisco, CA 94104

**Re: NMPRC Case No. 14-00124-TR-EN: In The Matter of the Petition of the  
Transportation Division of the New Mexico Public Regulation Commission For  
Issuance of an Order to Show Cause and Cease and Desist Against Lyft, Inc.**

Dear Ms. Sverchek:

Please find enclosed a copy of the **Order to Show Cause and Cease and Desist** issued by the New Mexico Public Regulation Commission (NMPRC) against Lyft, Inc. on May 21, 2014. Paragraph C of the Order commands:

**Lyft shall immediately cease and desist from providing motor carrier transportation services until it comes into compliance with the Motor Carrier Act and the Commission's rules and orders.**

The Commission expects Lyft to notify all motor vehicle drivers in New Mexico operating or approved by Lyft to operate as Lyft Operators or Drivers of the Commission's Order to immediately cease such operations and that any failure to comply with the requirements of the Order may subject both them and Lyft to additional penalties as identified in the Order.

Please be further advised that Paragraph A of the Order requires Lyft to file a responsive pleading by June 2, 2014 showing cause why Lyft's operations in New Mexico should not be

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COMMISSION  
FILED

Ms. Kristin Sverchek, Esq.

Page 2

May 23, 2014

found to have violated the New Mexico Motor Carrier Act and be subject to the penalties provided by law.

If you have any questions concerning this matter, please contact the NMPRC Transportation Division Director Ryan Jerman at (505) 827-4290.

Very truly yours,

A handwritten signature in cursive script that reads "Richard L. Blumenfeld".

Richard L. Blumenfeld  
Associate General Counsel

cc: Joseph M. Thompson, Esq.-Certified, Return Receipt Requested  
Nann Winter, Esq.- Certified, Return Receipt Requested  
Ryan Jerman, Director-Transp Div.

**BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION**

IN THE MATTER OF THE APPLICATION)  
OF HINTER-NM, LLC, FOR A )  
CERTIFICATE TO PROVIDE )  
SPECIALIZED PASSENGER SERVICE )  
AND TEMPORARY AUTHORITY )

Case No. 14-00151-TRM

**PETITION OF HINTER-NM, LLC REQUESTING THE COMMISSION TO WAIVE CERTAIN REQUIREMENTS FOR ITS APPLICATION FOR A CERTIFICATE TO PROVIDE SPECIALIZED PASSENGER SERVICE AND TEMPORARY AUTHORITY**

Petitioner Hinter-NM, LLC ("Hinter" or "Petitioner"), by its attorneys, Melendres & Melendres, P.C., respectfully submits this petition in support of its request that the Commission waive certain requirements of the application for a certificate to provide specialized passenger service pursuant to section 18.3.1.10 of the New Mexico Administrative Code ("NMAC") and grant temporary authority to Hinter to operate in Bernalillo County and the City of Rio Rancho ("Petition").

**PRELIMINARY STATEMENT**

Hinter's application for a certificate for specialized passenger service and temporary authority to operate in Bernalillo County and the City of Rio Rancho is currently pending before the Public Regulation Commission ("PRC"). Throughout the application process, Hinter has worked collaboratively with the PRC Staff and made a good faith effort to satisfy the PRC's requests. In fact, in response to the PRC Staff's requests, Hinter significantly amended and resubmitted its application. The PRC Staff has approved 16 of the 19 exhibits to Hinter's current application; or, stated another way, Hinter has satisfied nearly 85% of the threshold requirements.

Through this Petition, Hinter seeks a waiver of technical requirements imposed by the PRC Staff for the three exhibits that have not been approved: (1) "a list of all equipment" and

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“for each piece of equipment, an annual inspection form;” (2) “a list of drivers and driver’s license information for each driver;” and (3) a “written statement certifying that the motor carrier has developed a drug and alcohol testing program that will meet the requirements of 49 CFR Section 382 and Part 40.” Hinter satisfied the first two requirements by submitting affidavits, signed under the penalty of perjury, from its attorney of record attesting that: (1) he reviewed the driver’s current license; (2) the driver had an approved vehicle registration; (3) the driver’s vehicle had been certified by a DOT approved inspector; and (4) that a New Mexico MVD search on the driver had been performed. As for the third requirement, Hinter informed the PRC that it is not required to develop a drug and alcohol testing program because it does not employ drivers (they are independent contractors). Simply put, Hinter submitted sufficient information for the PRC to conclude that its operations were protective of public safety.

Hinter’s affidavits are a good faith attempt to balance the need to provide the PRC certain information in the application process with the legitimate concern of ensuring the personal safety of Hinter’s driver partners, all of whom are New Mexico citizens. As the Commission may be aware, local media have recently reported that drivers that would partner with Hinter in New Mexico have been the targets of abuse and harassment by taxi drivers and others.<sup>1</sup> Such abuse and harassments is not limited to New Mexico; drivers in other cities and states have similarly been targeted by taxi drivers and others. If Hinter were to submit information identifying specific drivers to the PRC as part of the public record, there is a little doubt that the drivers who are identified would be subject to abuse and harassment.

There is no disagreement that the letter and spirit of the application process for a certificate for specialized passenger service and temporary authority is to ensure public safety.

---

<sup>1</sup> See <http://www.koat.com/news/lyft-driver-cabbie-blocked-me-in-began-to-yell/26029626> (ABQ News report on May 16, 2014, harassment of Lyft Drivers by New Mexico taxi drivers).

The information already produced by Hinter in the application process establishes that its requirements for the persons that may be drivers and the vehicles that may be used by those drivers are at least as strict, if not stricter, than the requirements that the PRC imposes on motor carriers. Hinter's business model is based on providing safe, efficient, and high-quality transportation to New Mexico. Accordingly, Hinter asks that the Commission waive certain requirements under the motor carrier rules pursuant to section 18.3.1.10 of NMAC.

### **STATEMENT OF FACTS**

Hinter has been working with the PRC Staff for several months to comply with the Motor Carrier Act Article 2A of the New Mexico Statutes Annotated and the Motor Carrier General Provisions of NMAC (collectively "the Motor Carrier Rules"). Hinter submitted its application for a certificate for specialized passenger service and temporary authority on April 25, 2014. The PRC Staff determined that the application was incomplete as submitted based on the strict interpretation of the Motor Carrier Rules, and returned Hinter's application. On May 16, 2014, Hinter submitted its application again after further instructions from the PRC Staff in order to attempt to comply with the requirement of the Motor Carrier Rules. The PRC Staff reviewed Hinter's May 16<sup>th</sup> application and again the transportation director determined that he could not certify the application as complete.

The PRC determined that Hinter's application was lacking in three areas: 1) 18.3.2.21(C) and (D) require an applicant to submit "a list of all equipment" and "for each piece of equipment, an annual inspection form;" 2) 18.3.2.21(E) requires an applicant to submit "a list of drivers and driver's license information for each driver;" and 3) 18.3.2.21(J) requires a "written statement certifying that the motor carrier has developed a drug and alcohol testing program that will meet the requirements of 49 CFR Section 382 and Part 40."

For the first area, the PRC determined that an affidavit by one of Hinter's counsel affirming that the list of equipment is current did not fully comply with the rules. For the second area, the PRC determined that an affidavit by one of Hinter's counsel affirming the current driver information and driving records did not fully comply with the rules. For the third area, the PRC determined that the submission by Hinter explaining that Hinter does not employ any of the drivers and is unable to mandate a drug and alcohol testing program was insufficient to comply with the rules.

Upon further instruction from the PRC Staff, Hinter now submits this Petition for the Commission to review its application prior to Staff's certification of completeness and requests the Commission waive certain requirements of the application for a certificate to provide specialized passenger service.

### ARGUMENT

#### **I. COMMISSION'S WAIVER STANDARD**

A motor carrier that cannot meet one or more of the requirements of the Motor Carrier Rules may petition the Commission for a waiver or variance. Pursuant to 18.3.1.10 NMAC, "the commission may, in its discretion, waive or vary any requirement of [the Motor Carrier Rules] whenever the commission finds that such waiver or variance would be in the public interest." The petition shall include: (1) a list of those requirements which the motor carrier wishes to have waived or varied; (2) an explanation and description of the specific conditions which prevent the requirement from being met; and, (3) a statement of steps already taken and to be taken, with projected time limits for each step, in attempting to meet the requirements.

## **II. LIST OF THE REQUIREMENTS TO BE WAIVED**

Based upon the submission its current application, Hinter has complied with the Motor Carrier Rules. The only variance in its application is the fact that it submitted affidavits from counsel confirming that all required information exists, and the fact that it does not employ the drivers. Although the PRC Staff does not believe that it has the authority to interpret or waive these requirements itself, Hinter believes that the Commission could make such allowances for Hinter's business model to enter the market in Bernalillo County and Rio Rancho with advantageous results for the population as a whole.

Hinter respectfully requests the Commission waive the following requirements:

1. the requirement to submit a list with the independent contract drivers' names and personal information pursuant to 18.3.2.21(E) NMAC;
2. the requirement to submit a list of the vehicles' identifying information pursuant to 18.3.2.21(C) and (D) NMAC; and
3. the requirement to develop and submit a drug program pursuant to 18.3.2.21(J) NMAC.

## **III. CONDITIONS WHICH PREVENT HINTER FROM MEETING THE REQUIREMENTS**

- 1. The Commission Should Waive the Requirement for Hinter to Produce a List of Drivers and their Personal Information.**

Although the application requests an applicant to submit an actual list with the independent contract drivers' names and personal information, Hinter has submitted an equivalent in the form of an affidavit from counsel stating that counsel has the name of partner drivers. It is our understanding that the Commission does not perform any individual review of a driver's qualifications or fitness to be a driver. Here, counsel actually did an MVD search on the driver. Therefore, the purpose of the list appears to be simply to identify a driver in the instance of a complaint. But the PRC Staff can easily obtain this information from counsel. It appears

that this distinction is form over substance. The possession of the list by counsel provides the PRC with essentially the same access as the PRC possessing the list. It does not seem appropriate to reject the application based on a mere technical difference.

Importantly, there is a safety risk associated with making the list of drivers public. There have been documented examples of animosity toward drivers of new types of passenger service providers. Hiner must not only concern itself with the safety of passengers that are being picked up and taken to their desired locations, but also the safety of those drivers that contract with Hiner. See <http://www.koat.com/news/lyft-driver-cabbie-blocked-me-in-began-to-yell/26029626> (ABQ News report on May 16, 2014, harassment of Lyft Drivers by New Mexico taxi drivers). Attached as Exhibit 1.

Any animosity or potential danger that could arise by providing personal information for its drivers seems to be easily avoided by Hiner's counsel being the custodian of the list of drivers, rather than making such information public. Despite the strict requirements pursuant to the Motor Carrier Rules, Hiner believes that the safeguards in place and the safety of the drivers and passengers outweigh the formulaic requirements by the Motor Carrier Rules. It is Hiner's contention that providing safe and courteous motor carriers is the main goal of the Motor Carrier Rules. However, in this instance, those same requirements geared to protect drivers and the public may cause more danger than the harm the rules hope to prevent.

**2. The Commission Should Waive the Requirement for Hiner to Submit a List of Vehicles.**

Again, the application requests that an applicant submit a list of the vehicles' identifying information. Again, Hiner submitted an equivalent of the list by submitting an affidavit from counsel stating he had seen the approved DOT mechanic records certifying the vehicle for use. Hiner will maintain a complete lists of vehicles, which should fulfill the purpose of the

requirement, while still protecting drivers. Again, it seems unnecessary for the PRC to be the custodian of such a list.

Additionally, just as with the list of drivers, the list of vehicles potentially subjects drivers to harm. Hinter contracts with individual drivers who own their own cars. Hinter does not own any vehicles. Therefore, at the end of a shift, a driver would not turn over the vehicle to the motor carrier. Instead, the individual driver would continue to drive the vehicle even when he or she is off duty, as it acts in a dual capacity as their personal vehicle. Making this list public would place drivers at risk because not only could they be targeted while working for Hinter, but also their personal identity and vehicle identity could be targeted when they are not working for Hinter. These drivers' safety could thus be at potential risk 24 hours a day, seven days a week.

**3. The Commission Should Waive the Requirement for Hinter to Develop a Drug and Alcohol Testing Program for the Independent Contract Drivers.**

While the application requires an applicant to develop and submit a drug program pursuant to 18.3.2.21(J) NMAC, it is Hinter's position that it satisfies the concern underlying the Motor Carrier Rules regarding drug and alcohol use. Hinter **does extensive background checks** for any of its independent contract drivers and has a zero tolerance policy for drug and alcohol related offenses. Hinter, however, does not employ drivers. Instead, Hinter contracts with individual drivers. This creates issues in terms of how a drug and alcohol program could possibly be administered. Hinter understands the potential harm that the Motor Carrier Rules is trying to prevent and believes that its methods are an effective means of preventing the potential harm caused by drug or alcohol use. The Commission should grant the necessary waiver to Hinter regarding its drug policy.

**IV. Hinter Has Sufficiently Complied With The Motor Carrier Rules To Be Granted Waivers For Temporary Authority**

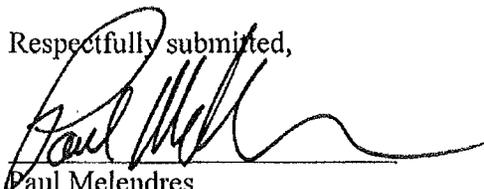
Hinter has all necessary information in its possession, satisfying the underlying purposes of the requirements listed above. Moreover, the undersigned attorney has reviewed and attested to the current licenses, and motor vehicle driving records of all current drivers. It seems unnecessary for Hinter to make public this information. Hinter believes this information is highly sensitive and creates a potential for retaliation against the drivers, endangering both the drivers and the public at large. As Hinter described in its application and further described above, Hinter does extensive background checks and has a zero tolerance for any drug or alcohol offense by its drivers.

Hinter respectfully requests that the Commission recognize, that while met in a technically different manner, Hinter meets all of the requirements necessary to receive a certificate for specialized passenger service and temporary authority to operate in Bernalillo County and the City of Rio Rancho.

CONCLUSION

For the reasons stated herein, as well as the documents, affidavits, application forms, and all of the other documents submitted to the Commission, Hiner respectfully requests the Commission to waive the necessary requirements in order to allow it to begin operating as a motor carrier in New Mexico with temporary authority.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Paul Melendres", written over a horizontal line.

Paul Melendres  
MELENDRES & MELENDRES, P.C.  
1017 5<sup>th</sup> Street NW  
Albuquerque, New Mexico 87102  
Telephone: (505) 243-8310

*Counsel for Hiner-NM, LLC*



## Lyft driver: Cabbie blocked me in, began to yell

*Melissa Roberge: It's an intimidation tactic*

### ALBUQUERQUE, N.M. -

Drivers taking part in Lyft, Albuquerque's new ride-sharing service, say they're being harassed.

One woman said she had a scary encounter with a cabbie in which the driver pulled up behind her in a parking lot and blocked her into a spot. She said at that point the driver began to yell at her.

### VIDEO | Lyft driver: Cabbie blocked me in, began to yell

Melissa Roberge said the cab driver might have been trying to send a message when the driver said Roberge was going to be arrested and her car was going to be towed.

"It is intimidation tactics," said Roberge. "I understand they're concerned about their business and their situation."

Roberge said she loves driving for Lyft, but the encounter in a lot near Seventh Street and Central Avenue was scary.

She thinks it's a great way to prevent DWIs.

Lyft is one of the new ride-sharing services in the city. Potential passengers hire a driver using an app.

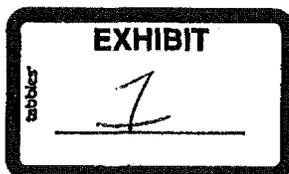
Roberge admits Lyft does take business away from taxis, but she doesn't think cabbies should consider Lyft a threat.

"I can't pick up someone on the street that flags me," she said. "I would never do that. I don't accept cash for rides."

Roberge has filed a police report.

The Public Regulation Commission oversees all commercial ride services. Officials said Lyft is breaking the law because drivers don't have the proper certification.

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# NEW MEXICO PUBLIC REGULATION COMMISSION

## COMMISSIONERS

DISTRICT 1 KAREN L. MONTOYA  
DISTRICT 2 PATRICK H. LYONS  
DISTRICT 3 VALERIE ESPINOZA, VICE CHAIR  
DISTRICT 4 THERESA BECENTI-AGUILAR, CHAIR  
DISTRICT 5 BEN L. HALL



P.O. Box 1269  
1120 Paseo de Peralta  
Santa Fe, NM 87504-1269

## CHIEF OF STAFF

S. Vincent Martinez

## OFFICE OF GENERAL COUNSEL

Michael C. Smith, General Counsel  
505-827-6947

May 29, 2014

Ms. Nann Winter, Esq.  
Stelzner, Winter, Warburton,  
Flores, Sanchez & Dawes, P.A.  
302 8th Street NW, Suite 200  
Albuquerque, New Mexico 87102

Dear Ms. Winter:

Having learned from you that you represent Lyft, Inc., in Commission Case No. 14-00124-TR-EN, the Commission's Office of General Counsel is informing you that it has become aware that your client, Lyft, Inc., and its operators or drivers are continuing to operate despite the Commission's Order to Show Cause and Cease and Desist, which was filed at the Commission on May 23, 2014, and which ordered Lyft to immediately halt its operations. Lyft and its operators or drivers must understand that they could face serious consequences if Lyft and those operators or drivers continue to operate.

As stated in the Order, NMSA 1978, Section 65-2A-32(B) (2003) provides that: "Notwithstanding the existence of any other penalties, the commission may assess an administrative fine of not more than ten thousand dollars (\$10,000) for each violation of a provision of the Motor Carrier Act or of a lawful rule or order of the commission. In case of a continuing violation, each day's violation shall be deemed to be a separate and distinct offense." (Emphasis added.) Additionally, Paragraph D of the Order stated: "Through this Order, Lyft is notified that failure to comply with this Order to Show Cause and Cease and Desist may subject Lyft to additional penalties as allowed by law." Therefore, it is incumbent upon Lyft and its operators or drivers that they immediately cease operating. Please inform your client of the potential serious consequences of continuing to operate. Thank you.

Very truly yours,

A handwritten signature in cursive script that reads "Richard L. Blumenfeld".

Richard L. Blumenfeld  
Associate General Counsel

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NEW MEXICO  
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**NEW MEXICO PUBLIC REGULATION COMMISSION**  
**TRANSPORTATION DIVISION**  
**P.O. BOX 1269**  
**SANTA FE, NEW MEXICO 87504-1269**

**APPLICATION**

 Case No. 14-00151- TR-M

**APPLICATION FEES**

2014 MAY 29 PM 2 39

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COMMISSION  
FILED

**Original request for Temporary Authority** **\$100.00**

**NOTE: DO NOT SEND ANY FEES OR DUPLICATE COPIES UNTIL  
INSTRUCTED TO DO SO BY STAFF**

Corporate/LLC. Name HINTER-NM, LLC

D/B/A Name N/A

Sole Proprietorship/Partnership Name N/A

Street Address 1017 5th Street N.W.

City, State, Zip Code Albuquerque, New Mexico 87102

If "Endorsement" application, PRC/SCC Certificate No. N/A

New Mexico CRS (Taxpayer ID) No. 4892607 Telephone No. (505)243-8310

Mailing Address (If different from above) 706 Mission St. Fl. 9  
San Francisco, CA 94103

EMAIL paul@melendreslaw.com

## **OATH OF APPLICANT**

**The signature must be that of the Applicant, not legal representative.**

**I certify that I will abide by all New Mexico Public Regulation Commission Rules & Regulations. I understand that the New Mexico Public Regulation Commission has also adopted & enforces Federal Motor Carrier Safety Regulations and Federal Hazardous Materials Regulations found in Title 49, Code of Federal Regulations, Chapter 3, with the variances adopted by the Motor Transportation Division of the New Mexico Department of Public Safety. I certify that all motor vehicles, and the drivers operating the vehicles, used in providing the services sought to be authorized meet the safety requirements of the Federal Motor Carrier Safety Regulations and the Federal Hazardous Materials Regulations.**

**I certify that I have sent in a COMPLETE application. I understand that if my application is INCOMPLETE, my application will be returned to me and I will have twenty (20) days to cure the deficiencies. I also understand that all fees paid will be forfeited to the state.**

**I certify that the proposed service is or will be required by the public convenience and necessity Rule No. 18.3.2.15(11) evidenced by Exhibit A of this application.**

**I certify that I am fit, willing and able, as required by Rule No. 18.3.2.15(12) evidenced by this affidavit, the above balance sheet, and all exhibits attached here to.**

**I also certify that I abide by all rules and regulations stated in the New Mexico Public Regulation Commission Motor Transportation Rules.**

**I further certify that I am authorized to make this application and affirm that the facts, statements and representations contained in this application and its attachments are true and correct to the best of my knowledge. I know that willful misstatements or omissions of material facts constitute administrative and criminal violations punishable by imprisonment and fines.**

I hereby swear and attest that I have read the Motor Carrier Act §§ 65-2A-1 to 40 NMSA 1978 and the Commission's Motor Transportation Rules, and have a working knowledge of the contents therein, and will operate any authority permitted by the Commission in compliance with the Motor Carrier Act and the Commission's Rules.

Signed: \_\_\_\_\_ Title (If Any): \_\_\_\_\_

Date: 4/22/2014

STATE OF California

COUNTY OF San Francisco

The person listed above personally appeared before the undersigned Notary Public in & for said County, in said State, who, being by me first duly sworn, says that he/she is authorized to make this application and that the facts, statements & representations contained in the application and attachments are true and correct to the best of his/her knowledge, information & belief.

Sworn & subscribed to before me this 22<sup>nd</sup> day of April 2014.

(SEAL)

S. Sapprasert  
Notary Public

My Commission expires:  
12/23/2017



State of California  
County of San Francisco  
Subscribed and sworn to (or affirmed)  
before me this 22 day of April, 2014  
by Travis Kalanick  
proved to me on the basis of satisfactory evidence  
to be the person(s) who appeared before me.

Signature S. Sapprasert

(Seal)

1

**BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION**

IN THE MATTER OF THE APPLICATION)  
OF HINTER-NM, LLC, FOR A )  
CERTIFICATE TO PROVIDE )  
SPECIALIZED PASSENGER SERVICE )  
AND TEMPORARY AUTHORITY )

Case No. 14-

**AFFIDAVIT OF GREGORY PAYNE**

STATE OF NEW MEXICO )  
 )ss.:  
COUNTY OF BERNALILLO )

GREGORY PAYNE, being duly sworn, deposes and states:

1. I am currently Resident of the City of Albuquerque, New Mexico. I served on the Albuquerque City Council and as a member of the New Mexico State House of Representatives.

2. I am the former Director of Transit for the City of Albuquerque and during that time had the opportunity the shepherd the creation of ABQ Rapid Ride, a rapid transit alternative in Albuquerque now common in major cities around the country.

3. When we announced ABQ Rapid Ride, critics said there was no need and that we would lack ridership.

4. From the time we offered ABQ Rapid Ride, the service has been a tremendous success demonstrating to me that citizens want, need and will utilize alternative transportation options.

5. I submit this affidavit in support of the Application For Certificate of Hinter-NM, LLC ("Hinter") to provide specialized passenger service and for temporary authority. The statements contained herein are based upon my personal knowledge, as well as information provided to me by others at Hinter.

6. Albuquerque lacks adequate taxi service, especially during times of conventions and on weekends when liquor establishments close.

7. I am familiar with the applicant company Hinter and the specialized passenger service that it is seeking to provide to the residents of Bernalillo County and the City of Rio Rancho.

8. Hinter is a unique company looking to provide passenger service to residents and visitors who have a specialized need for convenient, reliable transportation. There is a demand in Bernalillo County and Rio Rancho for passenger service in which the pickup time can be pre-arranged within a short time.

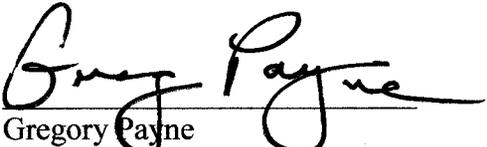
9. Hinter will license software technology developed by a software technology company Uber, Inc., and use that software platform to receive requests for transportation. A rider can use a software application to request transportation services from drivers who have entered into a written agreement with Hinter.

10. Unlike the passenger service options available currently, Hinter is seeking to increase the safety of public transportation, reduce the carbon footprint and expand the demand for motor carriers by appealing to the subset of individual residents who feel that they are dependent on using their own vehicle even at inopportune times, when a passenger service could be more convenient and economical.

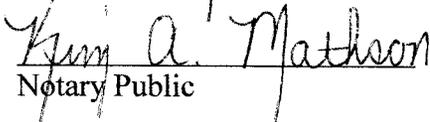
11. As more and more people are using and depending on their smart phones for directions, travel and information, because Hinter will license new technology to allow it to receive requests for transportation, the service provided by Hinter will enable the residents of Bernalillo County and Albuquerque to gain convenience and allow Bernalillo County and Albuquerque to be at the forefront of technology.

12. New Mexico is on the forefront of expanding its transportation services with RailRunner, and Hiner is looking to compliment and increase the convenience of passenger service in New Mexico with the introduction of this specialized passenger service.

13. As a native son of Albuquerque, former Member of the Albuquerque City Council, former Member of the New Mexico State House of Representatives and Former Director of Transit for the City of Albuquerque, I am familiar with the particular need for this specialized passenger service in Albuquerque and Bernalillo County.

  
Gregory Payne

Sworn to before me this  
23rd day of April 2014

  
Notary Public

My Commission Expires: 4/21/2018





visitors who have a specialized need for convenient, reliable transportation. There is a demand in Bernalillo County for passenger service in which the pickup time can be pre-arranged within a short time.

7. Hinter will license software technology developed by a software technology company, and use that software platform to receive requests for transportation. A rider can use a software application to request transportation services from drivers who have entered into a written agreement with Hinter.

8. Unlike the passenger service options available currently, Hinter is seeking to increase the safety of public transportation, reduce the carbon footprint and expand the demand for motor carriers by appealing to the subset of individual residents who feel that they are dependent on using their own vehicle even at inopportune times, when a passenger service could be more convenient and economical.

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10. New Mexico is on the forefront of expanding its transportation services with Rail Runner, and Hinter is looking to compliment and increase the convenience of passenger service in New Mexico with the introduction of this specialized passenger service.

There is no other certificated motor carriers providing the unique technologically advanced passenger service that Hinter is applying to supply to Albuquerque, Bernalillo County or the City of Rio Rancho.

  
Billy Baldwin

Sworn to before me this  
23<sup>rd</sup> day of April 2014

Patricia Fabunan  
Notary Public

My Commission Expires: 04/04/2018



**BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION**

IN THE MATTER OF THE APPLICATION)  
OF HINTER-NM, LLC, FOR A )  
CERTIFICATE TO PROVIDE )  
SPECIALIZED PASSENGER SERVICE )  
AND TEMPORARY AUTHORITY )

Case No. 14-

**AFFIDAVIT OF DALE LOCKETT**

STATE OF NEW MEXICO )  
 ) ss.:  
COUNTY OF BERNALILLO )

Dale Lockett, being duly sworn, deposes and states:

1. I am the current President and CEO of the Albuquerque Convention & Visitors Bureau (ACVB).

2. Taxi service and public transit in Albuquerque can be improved to address the demand for transportation alternatives and options for individuals attending conventions in Albuquerque along with individual leisure travelers. The Board of Directors of ACVB has voted to support the Application for Certificate of Hinter NM, LLC ("Hinter").

3. I submit this affidavit in support of the Application for Certificate of Hinter-NM, LLC ("Hinter") to provide specialized passenger service and for temporary authority. The statements contained herein are based upon my personal knowledge, as well as information provided to me by others representing Hinter.

4. I am familiar with the specialized passenger service that it is seeking to provide to the residents of Bernalillo County and the City of Rio Rancho.

5. Hinter is a unique company looking to provide passenger service to residents and visitors who have a specialized need for convenient, reliable transportation. There is

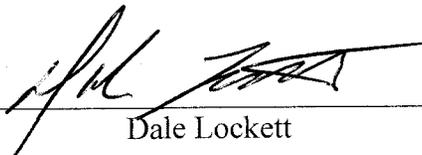
a demand in Bernalillo County for passenger service in which the pickup time can be pre-arranged within a short time.

6. Hinter will license software technology developed by a software technology company, Uber, Inc., and use that software platform to receive requests for transportation. A rider can use a software application to request transportation services from drivers who have entered into a written agreement with Hinter.

7. Hinter is seeking to increase the safety of public transportation, reduce the carbon footprint and expand the demand for motor carriers by appealing to the subset of individual residents who feel that they are dependent on using their own vehicle even at inopportune times, when a passenger service could be more convenient and economical.

8. As more and more people are using and depending on their smart phones for directions, travel and information, the service provided by Hinter will enable the residents of Bernalillo County and Rio Rancho to gain convenience and allow Bernalillo County and Rio Rancho to be at the forefront of technology.

9. New Mexico is on the forefront of expanding its transportation services with the Rail Runner, and Hinter is looking to compliment and increase the convenience of passenger service in New Mexico with the introduction of this specialized passenger service.

  
Dale Lockett

Sworn to before me this  
22<sup>nd</sup> day of April 2014

  
Notary Public

My commission expires: 12/14/14

**BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION**

IN THE MATTER OF THE APPLICATION)  
OF HINTER-NM, LLC, FOR A )  
CERTIFICATE TO PROVIDE )  
SPECIALIZED PASSENGER SERVICE )  
AND TEMPORARY AUTHORITY )

Case No. 14-

**AFFIDAVIT OF ARTHUR A. SCHREIBER**

STATE OF NEW MEXICO )  
 )ss.:  
COUNTY OF BERNALILLO )

Arthur A. Schreiber, being duly sworn, deposes and states:

1. I am currently Chairman of the New Mexico Commission For The Blind.
2. I am blind.
3. I submit this affidavit in support of the Application For Certificate of Hinter-NM, LLC ("Hinter") to provide specialized passenger service and for temporary authority. The statements contained herein are based upon my personal knowledge, as well as information provided to me by others at Hinter.
4. Current taxi service and public transportation to not adequately meet the needs of the site impaired and otherwise physically impaired community in Bernalillo County and Rio Rancho.
5. I am familiar with the applicant company Hinter and the specialized passenger service that it is seeking to provide to the residents of Bernalillo County and the City of Rio Rancho.
6. Hinter is a unique company looking to provide passenger service to residents and visitors who have a specialized need for convenient, reliable transportation. There is a demand in Bernalillo County for passenger service in which the pickup time can be pre-arranged within a short time.

7. Hinter will license software technology developed by a software technology company, Uber, Inc., and use that software platform to receive requests for transportation. A rider can use a software application to request transportation services from drivers who have entered into a written agreement with Hinter.

8. This specialized passenger service will not have a fixed route or schedule. It will be for hire by the public, who may request service through the specialized software application. The charge for transportation services provided by drivers who have contracted with Hinter will be made based on time and/or distance, or for a flat fee between certain destinations. Rates may be viewed in the software application or online, and an option is available for users to estimate fare through the software application prior to requesting transportation services from Hinter.

9. Over 100 transportation providers have expressed interest in partnering with Hinter, which indicates the interest transportation providers have in offering this specialized passenger service.

10. Unlike the passenger service options available currently, Hinter is seeking to increase the safety of public transportation, reduce the carbon footprint and expand the demand for motor carriers by appealing to the subset of individual residents who feel that they are dependent on using their own vehicle even at inopportune times, when a passenger service could be more convenient and economical.

11. As more and more people are using and depending on their smart phones for directions, travel and information, because Hinter will license new technology to allow it to receive requests for transportation, the service provided by Hinter will enable the residents of Bernalillo County to gain convenience and allow Bernalillo County to be at the forefront of

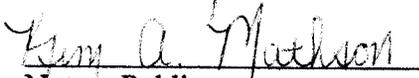
technology.

12. New Mexico is on the forefront of expanding its transportation services with RailRunner, and Hiner is looking to compliment and increase the convenience of passenger service in New Mexico with the introduction of this specialized passenger service.

13. As a long time resident of Albuquerque and long time advocate for individuals suffering from various disabilities, I am familiar with the particular need for this specialized passenger service in Bernalillo County.

  
\_\_\_\_\_  
Arthur A. Schreiber

Sworn to before me this  
23rd day of April 2014

  
\_\_\_\_\_  
Notary Public

My Commission Expires: 4/30/2018





arranged within a short time.

6. Hinter will license software technology developed by a software technology company, and use that software platform to receive requests for transportation. A rider can use a software application to request transportation services from drivers who have entered into a written agreement with Hinter.

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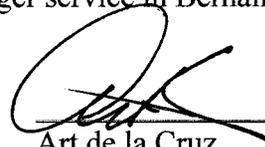
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Bernalillo County to gain convenience and allow Bernalillo County to be at the forefront of technology.

11. New Mexico is on the forefront of expanding its transportation services with RailRunner, and Hiner is looking to compliment and increase the convenience of passenger service in New Mexico with the introduction of this specialized passenger service.

12. As a life long resident of the area and an elected official for Bernalillo County, I am familiar with the particular need for this specialized passenger service in Bernalillo County.

  
\_\_\_\_\_  
Art de la Cruz

Sworn to before me this  
22nd day of April 2014

Kim A. Mathson  
Notary Public

My Commission Expires: 4/21/2018

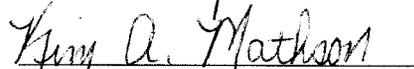




6. Hinter is a unique company looking to provide passenger service to residents and visitors who have a specialized need for convenient, reliable transportation. There is a demand in Bernalillo County for passenger service in which the pickup time can be pre-arranged within a short time.
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8. Unlike the passenger service options available currently, Hinter is seeking to increase the safety of public transportation, reduce the carbon footprint and expand the demand for motor carriers by appealing to the subset of individual residents who feel that they are dependent on using their own vehicle even at inopportune times, when a passenger service could be more convenient and economical.
9. As more and more people are using and depending on their smart phones for directions, travel and information, because Hinter will license new technology to allow it to receive requests for transportation, the service provided by Hinter will enable the residents of Bernalillo County and Albuquerque to gain convenience and allow Bernalillo County and Albuquerque to be at the forefront of technology.
10. New Mexico is on the forefront of expanding its transportation services with RailRunner, and Hinter is looking to compliment and increase the convenience of passenger service in New Mexico with the introduction of this specialized passenger service.
11. As a native son of Albuquerque and President of the Albuquerque City Council, I am familiar with the particular need for this specialized passenger service in Bernalillo County.

  
Ken Sanchez

Sworn to before me this  
23rd day of April 2014

  
Notary Public

My Commission Expires: 4/21/2018





6. Hinter is a unique company looking to provide passenger service to residents and visitors who have a specialized need for convenient, reliable transportation. There is a demand in Bernalillo County for passenger service in which the pickup time can be pre-arranged within a short time.

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10. New Mexico is on the forefront of expanding its transportation services with RailRunner, and Hinter is looking to compliment and increase the convenience of passenger service in New Mexico with the introduction of this specialized passenger service.

11. By improving ease of access and travel to Downtown Albuquerque, Hinter's service will support Downtown revitalization efforts.

12. Hinter's service supports entrepreneurship by recruiting individuals interested pursuing a business of their own to become Hinter drivers.

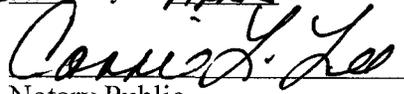
13. Hinter's service supports elderly care by offering elderly individuals a convenient alternative transportation option.

14. As a long time resident of Albuquerque and long time advocate for individuals suffering from various disabilities, I am familiar with the particular need for this specialized passenger service in Bernalillo County.



---

Alex Romero

Sworn to before me this  
22<sup>nd</sup> day of April 2014  
  
Notary Public

My Commission Expires: 6-17-14

**BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION**

IN THE MATTER OF THE APPLICATION)  
OF HINTER-NM, LLC, FOR A )  
CERTIFICATE TO PROVIDE )  
SPECIALIZED PASSENGER SERVICE )  
AND TEMPORARY AUTHORITY )

Case No. 14-

**AFFIDAVIT OF TERRI COLE**

STATE OF NEW MEXICO )  
 )ss.:  
COUNTY OF BERNALILLO )

Terri Cole, being duly sworn, deposes and states:

1. I am currently President and CEO of the Greater Albuquerque Chamber of Commerce.
2. I submit this affidavit in support of the Application For Certificate of Hinter-NM, LLC (“Hinter”) to provide specialized passenger service and for temporary authority. The statements contained herein are based upon my personal knowledge.
3. Current taxi service and public transportation do not always meet the alternative transportation needs of residents of Bernalillo County and Rio Rancho.
4. Bernalillo County and Rio Rancho currently suffer from serious problems resulting from Driving While Intoxicated (DWI) related offenses which are not satisfactorily addressed through existing transportation alternatives.
5. I am familiar with the applicant company Hinter and the specialized passenger service that it is seeking to provide to the residents of Bernalillo County and the City of Rio Rancho.
6. Hinter is a unique company looking to provide passenger service to residents and visitors who have a specialized need for convenient, reliable transportation. There is a demand in Bernalillo County for passenger service in which the pickup time can be pre-arranged within a short time.

7. Hinter will license software technology developed by a software technology company, Uber, Inc., and use that software platform to receive requests for transportation. A rider can use a software application to request transportation services from drivers who have entered into a written agreement with Hinter.

8. Hinter is seeking to increase the safety of public transportation, reduce the carbon footprint and expand the demand for motor carriers by appealing to the subset of individual residents who feel that they are dependent on using their own vehicle even at inopportune times, when a passenger service could be more convenient and economical.

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10. New Mexico is on the forefront of expanding its transportation services with RailRunner, and Hinter is looking to compliment and increase the convenience of passenger service in New Mexico with the introduction of this specialized passenger service.

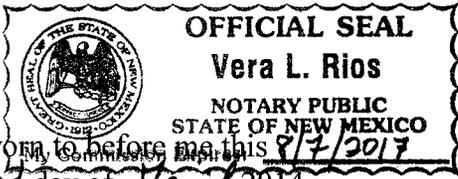
11. By improving ease of access and travel to Downtown Albuquerque, Hinter's service will support Downtown revitalization efforts.

12. Hinter's service supports entrepreneurship by recruiting individuals interested in pursuing a business of their own to become Hinter drivers.

13. Hinter's service supports elderly care by offering elderly individuals a convenient alternative transportation option.

14. As a long time resident of Albuquerque and long time advocate for individuals suffering from various disabilities, I am familiar with the particular need for this specialized

passenger service in Bernalillo County.



Sworn to before me on this 8/7/2017  
22nd day of April 2014

Notary Public

My Commission Expires: August 7, 2017

Terri Cole



that it is seeking to provide to the residents of Bernalillo County and the City of Rio Rancho.

6. Hinter is a unique company looking to provide passenger service to residents and visitors who have a specialized need for convenient, reliable transportation. There is a demand in Bernalillo County for passenger service in which the pickup time can be pre-arranged within a short time.

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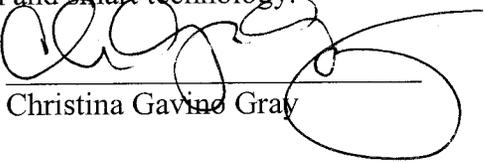
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9. As more and more people are using and depending on their smart phones for directions, travel and information, because Hinter will license new technology to allow it to receive requests for transportation, the service provided by Hinter will enable the residents of Bernalillo County and Albuquerque to gain convenience and allow Bernalillo County and Albuquerque to be at the forefront of technology.

10. New Mexico is on the forefront of expanding its transportation services with Rail Runner, and Hinter is looking to compliment and increase the convenience of passenger service in New Mexico with the introduction of this specialized passenger service.

The technology employed by Hinter NM and the presence of the service provided will

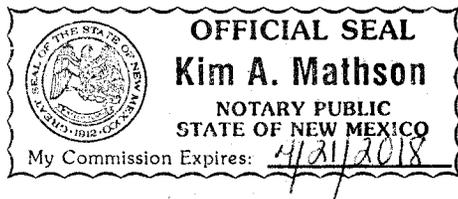
enhance New Mexico's reputation as a place for smart growth and smart technology.

  
Christina Gavino Gray

Sworn to before me this  
23rd day of April 2014

Kim A. Mathson  
Notary Public

My Commission Expires: 4/21/2018





in Bernalillo County for passenger service in which the pickup time can be pre-arranged within a short time.

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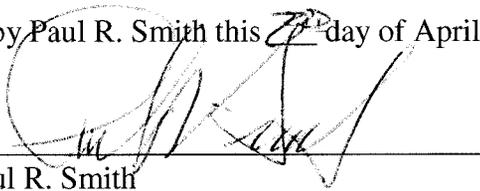
8. Hinter is seeking to increase the safety of public transportation, reduce the carbon footprint and expand the demand for motor carriers by appealing to the subset of individual residents who feel that they are dependent on using their own vehicle even at inopportune times, when a passenger service could be more convenient and economical.

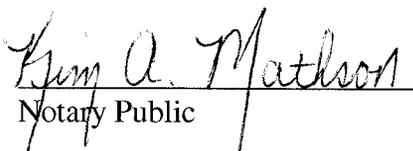
9. Many people are using and depending on their smart phones for directions, travel and information and Hinter will license new technology to allow residents to request transportation through their smart phones thus enabling the residents of Bernalillo County and Albuquerque to gain convenience and allow Bernalillo County and Albuquerque to be at the forefront of technology.

10. To my knowledge there is currently no service such as Hinter in New Mexico.

STATE OF NEW MEXICO  
COUNTY OF BERNALILLO ss

This Affidavit was subscribed and sworn to before me by Paul R. Smith this 27<sup>th</sup> day of April, 2014.

  
Paul R. Smith

  
Notary Public

My Commission Expires: 4/21/2018



Letter of Support

IN THE MATTER OF THE APPLICATION  
OF HINTER-NM, LLC, FOR A  
CERTIFICATE TO PROVIDE  
SPECIALIZED PASSENGER SERVICE  
AND TEMPORARY AUTHORITY

April 21, 2014

Public Regulation Commissioners:

I am the Chief Executive Officer of the New Mexico Restaurant Association (NMRA) and in that capacity am intimately familiar with the lack of taxi service and public transportation available in Albuquerque and Rio Rancho to serve the needs of restaurant patrons.

This inadequacy of both taxi service and public transit has made it so that some people are unable to patronize restaurants in the Albuquerque and Rio Rancho area. Whatever the reason for the taxi service: physical disabilities, old age or impaired driving, individuals should be able to purchase reliable transportation through a taxi service. It has been our experience in the restaurant industry, in Albuquerque, that the current service is not reliable and often nonexistent.

I submit this letter in support of the Application For Certificate of Hinter-NM, LLC ("Hinter") to provide specialized passenger service in the greater Albuquerque area. The statements contained herein are based upon my personal knowledge, as well as information provided to me by others familiar with Hinter.

I personally utilize the Uber software on my phone when I travel, and am aware that it does not exist in New Mexico and hence I am familiar with the applicant company Hinter and the specialized passenger service that it is seeking to provide to the residents of Bernalillo County and the City of Rio Rancho.

Hinter is a unique company looking to provide passenger service to residents and visitors who have a specialized need for convenient, reliable transportation. There is a demand in Bernalillo County for passenger service in which the pickup time can be pre-arranged within a short time.

Hinter will license software technology developed by a software technology company, Uber, Inc., and use that software platform to receive requests for transportation. A rider can use a software application to request transportation services from drivers who have entered into a written agreement with Hinter.

Unlike the passenger service options available currently, Hinter is seeking to increase the safety of public transportation, reduce the carbon footprint and expand the demand for motor carriers by appealing to the subset of individual residents who feel that they are dependent on using their own vehicle even at inopportune times. This kind of passenger service could be more convenient, safe and economical.

As more and more people are using and depending on their smart phones for directions, travel and information, the service provided by Hinter will enable the residents of Bernalillo County and Albuquerque the convenience to be at the forefront of this transportation technology.

Hinter is looking to compliment the use of the Rail Runner by allowing passengers to rest assured they have a ready ride when the train pulls into the station. Hinter will increase the convenience of passenger service in New Mexico with the introduction of this specialized passenger service.

As an individual intimately familiar with the restaurant industry in New Mexico, I believe that immediate introduction of this specialized passenger service is critical to promote personal safety and convenience for our citizens.

At your service



Carol Wight  
CEO

2

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF THE APPLICATION)  
OF HINTER-NM, LLC, FOR A )  
CERTIFICATE TO PROVIDE )  
SPECIALIZED PASSENGER SERVICE )  
AND TEMPORARY AUTHORITY )

Case No. 14-

**AFFIDAVIT OF KARI BRANDENBURG**

STATE OF NEW MEXICO )  
 ) ss.:  
COUNTY OF BERNALILLO )

Kari Brandenburg, being duly sworn, deposes and states:

1. I am currently District Attorney for Bernalillo County and am serving in my 4th term in that position.
2. In my capacity as District Attorney, I have witnessed the devastation of Driving While Intoxicated (DWI) throughout Bernalillo and Rio Rancho, as well as across the State of New Mexico.
3. Taxi service and public transit in Albuquerque are inadequate to address the challenge of intoxicated individuals in need of transportation.
4. I submit this affidavit in support of the Application For Certificate of Hinter-NM, LLC ("Hinter") to provide specialized passenger service and for temporary authority. The statements contained herein are based upon my personal knowledge, as well as information provided to me by others associated with Hinter.
5. I know of the applicant company Hinter and the specialized passenger service that it is seeking to provide to the residents of Bernalillo County and the City of Rio Rancho.

6. Hinter is a company looking to provide passenger service to residents and visitors who have a specialized need for convenient, reliable transportation. There is a demand in Bernalillo County for passenger service in which the pickup time can be pre-arranged within a short time.

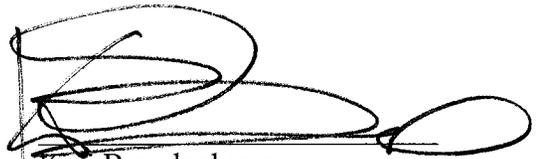
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10. New Mexico is on the forefront of expanding its transportation services with RailRunner, and Hinter is looking to compliment and increase the convenience of passenger service in New Mexico with the introduction of this specialized passenger service.

11. As the District Attorney of Bernalillo County, I believe that introduction of this specialized passenger service is beneficial to the personal safety of the Public.



Kari Brandenburg  
District Attorney

SUBSCRIBED AND SWORN to before me this 23<sup>rd</sup> day of April, 2014.

*Michelle Contreras*  
NOTARY PUBLIC

My Commission Expires:



**BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION**

IN THE MATTER OF THE APPLICATION)  
OF HINTER-NM, LLC, FOR A )  
CERTIFICATE TO PROVIDE )  
SPECIALIZED PASSENGER SERVICE )  
AND TEMPORARY AUTHORITY )

Case No. 14-

**AFFIDAVIT OF ROBERT ORTEGA**

STATE OF NEW MEXICO )  
 ) ss.:  
COUNTY OF BERNALILLO )

Robert Ortega, being duly sworn, deposes and states:

1. I am a former Chief of the Albuquerque Fire Department, retired from the Albuquerque Fire Department and life long resident of Albuquerque, New Mexico.
2. In my capacity as a Fire Chief, I have witnessed the devastation of Driving While Intoxicated (DWI) throughout Bernalillo and Rio Rancho as well as across the State of New Mexico.
3. Taxi service and public transit in Albuquerque are inadequate to address the challenge of intoxicated individuals in need of transportation other than their own personal vehicles.
4. I submit this affidavit in support of the Application For Certificate of Hinter-NM, LLC ("Hinter") to provide specialized passenger service and for temporary authority. The statements contained herein are based upon my personal knowledge, as well as information provided to me by others at Hinter.
5. I am familiar with the applicant company Hinter and the specialized passenger service that it is seeking to provide to the residents of Bernalillo County and the City of Rio Rancho.

6. Hinter is a unique company looking to provide passenger service to residents and visitors who have a specialized need for convenient, reliable transportation. There is a demand in Bernalillo County for passenger service in which the pickup time can be pre-arranged within a short time.

7. Hinter will license software technology developed by a software technology company, and use that software platform to receive requests for transportation. A rider can use a software application to request transportation services from drivers who have entered into a written agreement with Hinter.

8. Unlike the passenger service options available currently, Hinter is seeking to increase the safety of public transportation, reduce the carbon footprint and expand the demand for motor carriers by appealing to the subset of individual residents who feel that they are dependent on using their own vehicle even at inopportune times, when a passenger service could be more convenient and economical.

9. As more and more people are using and depending on their smart phones for directions, travel and information, because Hinter will license new technology to allow it to receive requests for transportation, the service provided by Hinter will enable the residents of Bernalillo County and Albuquerque to gain convenience and allow Bernalillo County and Albuquerque to be at the forefront of technology.

10. New Mexico is on the forefront of expanding its transportation services with RailRunner, and Hinter is looking to compliment and increase the convenience of passenger service in New Mexico with the introduction of this specialized passenger service.

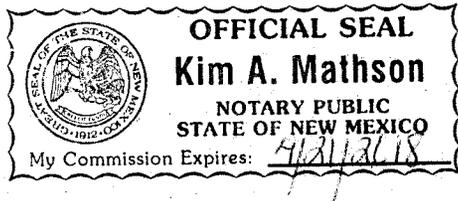
11. As a Retired Fire Chief, I believe that immediate introduction of this specialized passenger service is critical to the personal safety of the Public.

*Robert E. Ortega*  
Robert Ortega

Sworn to before me this  
22nd day of April 2014

*Kim A. Mathson*  
Notary Public

My Commission Expires: 4/21/2018





and visitors who have a specialized need for convenient, reliable transportation. There is a demand in Bernalillo County for passenger service in which the pickup time can be pre-arranged within a short time.

6. Hinter will license software technology developed by a software technology company, and use that software platform to receive requests for transportation. A rider can use a software application to request transportation services from drivers who have entered into a written agreement with Hinter.

7. This specialized passenger service will not have a fixed route or schedule. It will be for hire by the public, who may request service through the specialized software application. The charge for transportation services provided by drivers who have contracted with Hinter will be made based on time and/or distance, or for a flat fee between certain destinations. Rates may be viewed in the software application or online, and an option is available for users to estimate fare through the software application prior to requesting transportation services from Hinter.

8. Over 100 transportation providers have expressed interest in partnering with Hinter, which indicates the interest transportation providers have in offering this specialized passenger service.

9. Unlike the passenger service options available currently, Hinter is seeking to increase the safety of public transportation, reduce the carbon footprint and expand the demand for motor carriers by appealing to the subset of individual residents who feel that they are dependent on using their own vehicle even at inopportune times, when a passenger service could be more convenient and economical.

10. As more and more people are using and depending on their smart phones for

directions, travel and information, because Hinter will license new technology to allow it to receive requests for transportation, the service provided by Hinter will enable the residents of Bernalillo County to gain convenience and allow Bernalillo County to be at the forefront of technology.

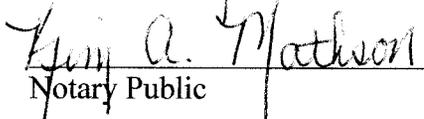
11. New Mexico is on the forefront of expanding its transportation services with Rail Runner, and Hinter is looking to compliment and increase the convenience of passenger service in New Mexico with the introduction of this specialized passenger service.

12. As a long time resident of the community, I am familiar with the particular need for this specialized passenger service in Bernalillo County.



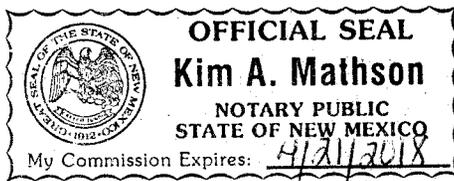
Robert M. White

Sworn to before me this  
22nd day of April 2014



Notary Public

My Commission Expires 4/21/2018





6. Hinter is a unique company looking to provide passenger service to residents and visitors who have a specialized need for convenient, reliable transportation. There is a demand in Bernalillo County for passenger service in which the pickup time can be pre-arranged within a short time.

7. Hinter will license software technology developed by a software technology company, and use that software platform to receive requests for transportation. A rider can use a software application to request transportation services from drivers who have entered into a written agreement with Hinter.

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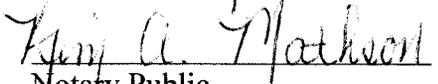
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10. New Mexico is on the forefront of expanding its transportation services with RailRunner, and Hinter is looking to compliment and increase the convenience of passenger service in New Mexico with the introduction of this specialized passenger service.

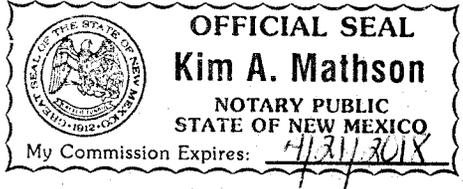
11. As a Retired Fire Chief, I believe that immediate introduction of this specialized passenger service is critical to the personal safety of the Public.

  
Carlos Dominguez

Sworn to before me this  
23rd day of April 2014

  
Notary Public

My Commission Expires: 4/21/2018





5. I am familiar with the applicant company Hinter and the specialized passenger service that it is seeking to provide to the residents of Bernalillo County and the City of Rio Rancho.

6. Hinter is a unique company looking to provide passenger service to residents and visitors who have a specialized need for convenient, reliable transportation. There is a demand in Bernalillo County for passenger service in which the pickup time can be pre-arranged within a short time.

1. Hinter will license software technology developed by a software technology company, Uber, Inc., and use that software platform to receive requests for transportation. A rider can use a software application to request transportation services from drivers who have entered into a written agreement with Hinter.

2. Unlike the passenger service options available currently, Hinter is seeking to increase the safety of public transportation, reduce the carbon footprint and expand the demand for motor carriers by appealing to the subset of individual residents who feel that they are dependent on using their own vehicle even at inopportune times, when a passenger service could be more convenient and economical.

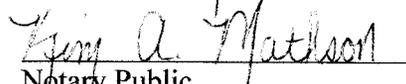
3. As more and more people are using and depending on their smart phones for directions, travel and information, because Hinter will license new technology to allow it to receive requests for transportation, the service provided by Hinter will enable the residents of Bernalillo County and Albuquerque to gain convenience and allow Bernalillo County and Albuquerque to be at the forefront of technology.

4. New Mexico is on the forefront of expanding its transportation services with Rail Runner, and Hinter is looking to compliment and increase the convenience of passenger service in New Mexico with the introduction of this specialized passenger service.

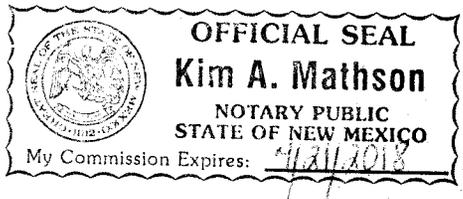
5. As an expert in Public Safety, I believe that immediate introduction of this specialized passenger service is critical to the personal safety of the Public.

  
Nicholas Bakas

Sworn to before me this  
23rd day of April 2014

  
Notary Public

My Commission Expires: 4/21/2018



MELENDRES, MELENDRES & HARRIGAN, PC

1017 5TH ST NW  
ALBUQUERQUE, NM 87102-2140  
(505) 243-8310

BANK OF AMERICA, NA  
95-32/1070

6317

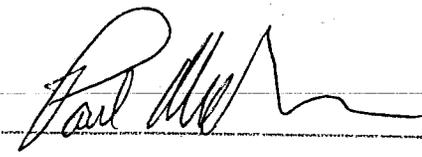
04/20/2014

PAY TO THE ORDER OF NM PRC

\$ \*\*100.00

One hundred and 00/100\*\*\*\*\* DOLLARS

NM PRC



MEMO

⑈006317⑈ ⑆107000327⑆ 439003345582⑈

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**NEW MEXICO PUBLIC REGULATION COMMISSION**  
**TRANSPORTATION DIVISION**  
**P.O. BOX 1269**  
**SANTA FE, NEW MEXICO 87504-1269**

**APPLICATION**

 Case No. 14-00151- TR-M

**APPLICATION FEES**

NEW MEXICO  
PUBLIC REGULATION  
COMMISSION  
FILED  
2014 MAY 29 PM 2 20

<b><u>THIS IS AN ORIGINAL APPLICATION FOR A:</u></b>	<b><u>FEES</u></b>
<u>  X  </u> Certificate	\$250.00
<u>      </u> Permit	\$250.00
<u>      </u> Amendment of a (check one):	\$250.00
(a) <u>      </u> Certificate	
(b) <u>      </u> Permit	
<u>      </u> Transfer of a (check one):	\$200.00
(a) <u>      </u> Certificate	
(b) <u>      </u> Permit	

**NOTE: DO NOT SEND ANY FEES OR DUPLICATE COPIES UNTIL  
INSTRUCTED TO DO SO BY TRANSPORTATION DIVISION  
STAFF**

Corporate/LLC Name HINTER-NM, LLC

All D/B/A Names N/A

Sole Proprietorship/Partnership Name N/A

Street Address 1017 5th Street N.W.

City, State, Zip Code Albuquerque, New Mexico 87102

If application for an Amendment, PRC Certificate No. N/A

New Mexico CRS (Taxpayer ID) No. 4892607 Telephone No. (505) 243-8310

Mailing Address (If different from above) 706 Mission St. Fl. 9  
San Francisco, CA 94103

Email Address (Note: the PRC provides direct notices of many proceedings, including rulemakings and applications for new authorities only through email. The PRC will also post notices of these proceedings on its website, at <http://www.nmprc.state.nm.us/transportation/legal-notices.html>. If you wish to receive direct notices of these future proceedings, you must provide an email address below.)  
paul@melendreslaw.com

**I. FORM OF BUSINESS: (Check only one)**

- LIMITED LIABILITY COMPANY**
- CORPORATION**
- PARTNERSHIP**
- SOLE PROPRIETORSHIP**
- GOVERNMENTAL/TRIBAL ENTITY**

**PRIOR ILLEGAL ACTIVITIES**

Has the Applicant (if a sole proprietor), or any officer or board member (if a corporation), or any partner (if a partnership), ever been indicted for, or convicted of fraud, fraudulent misrepresentation, or embezzlement?

- NO       YES, INDICTED       YES, CONVICTED

Name of Person N/A

Offense N/A

**PARENTAL RESPONSIBILITY**

**18.3.10 NMAC**

Are you subject to court ordered spousal or child support payments?

- NO       YES

**II. APPOINTMENT OF A RESIDENT AGENT FOR SERVICE OF PROCESS**

You must appoint an agent other than yourself who is a resident of the State of New Mexico upon whom all legal notices may be served. Section 65-2A-28 NMSA 1978

**Name of Agent** National Registered Agents, Inc.

**Street Address** 123 E Marcy, Santa Fe, NM 87501

**Telephone No. & email** \_\_\_\_\_

**III. DESIGNATION OF AN ATTORNEY LICENSED IN NEW MEXICO** If an attorney has assisted you in preparing this application or will be representing you before the Commission.

**Name of Attorney** Paul Melendres

**Law Firm & Address** Melendres & Melendres, P.C. & 1017 5th St. N.W.  
Albuquerque, New Mexico 87102

**Telephone No. & email** 505-243-8310 & paul@melendreslaw.com

**IV. DESCRIPTION OF TRANSPORTATION SERVICES TO BE PROVIDED:**

Please circle the letter that describes the type of Transportation Service you will be providing. If you are selecting Shuttle Service you must choose either Scheduled or General; if you are selecting Taxicab Service you must choose either Municipal or General; and if you are selecting Specialized Passenger Service, you must identify the type of service you will be providing.

**A. SHUTTLE SERVICE (NMSA 1978, §65-2A-3(BBB)):**

“Shuttle service means the intrastate transportation of passengers for hire pursuant to a set fare for each passenger between two or more specified terminal points or areas and includes both scheduled shuttle service and general shuttle service.”

**Scheduled**

“Scheduled shuttle service means a shuttle service that transports passengers to and from an airport both through prior arrangement and through presentment at terminal locations, on the basis of a daily time schedule filed with the commission, which must be met in a timely fashion with a vehicle present at the terminal location regardless of the number of passengers carried on any run, if any, and includes general shuttle service.”

**☐ General**

“General shuttle service means a shuttle service that is not required to operate on a set schedule, that may optionally use a grid map to specify distant or adjacent terminal areas and that is not required to accept passengers other than pre-arranged passengers.”

**B. TAXICAB SERVICE (NMSA 1978, §65-2A-3(GGG)):**

“Taxicab service means intrastate transportation of passengers for hire in a motor vehicle having a capacity of not more than eight persons, including the driver, for which the passenger or other person engaging the vehicle is allowed to specify not only the origin and destination points of the trip but also, within reason, the route taken by the vehicle, any intermediate stop, any optional waiting at a stop and any other passengers transported during the trip and that charges a fare for use of the vehicle primarily on the basis of a drop-flag fee, cumulative mileage and cumulative wait time through a taxicab meter used to cumulate and display the fare to the passenger and includes both municipal taxicab service and general taxicab service.”

**☐ Municipal**

“Municipal taxicab service means a taxicab service that deploys vehicles at all times of the day and year, is centrally dispatched and reasonably responds to all calls for service within its endorsed full-service territory regardless of profitability of the individual trip, in addition to the transportation service provided by a general taxicab service.”

**☐ General**

“General taxicab service means a taxicab service that need not be dispatched, that may pick up on-demand passengers through flagging or at a taxicab stand or queue, that need not deploy vehicles in any particular manner and that may charge for trips to destination points or places outside of the taxicab service’s certificated territories on the basis of a set fare.”

**C. SPECIALIZED PASSENGER SERVICE (NMSA 1978, §65-2A-3(CCC)):**

“Specialized passenger service means the intrastate transportation for hire of passengers with special physical needs by specialized types of vehicles, or for specialized types of service to the public or community.”

**☐ Non-emergency Medical Transport**

“Non-emergency medical transport service means the unscheduled medically necessary transportation of passengers in a motor vehicle over irregular routes, to or from medical facilities only, at rates that apply to each individual passenger.”  
18.3.1.7.N NMAC.

**☐ Tour and Sightseeing**

“Tour and sightseeing service means the scheduled or unscheduled guided compensated transportation of passengers over regular or irregular routes in motor vehicles to scenic points or other points of interest at rates that apply to each individual passenger.” 18.3.1.7.V NMAC.

**☐ Limousine**

“Limousine service means the unscheduled compensated transportation over irregular routes of passengers in a chauffeur-driven luxury motor vehicle at the exclusive use of one individual or group at a fixed charge for the motor vehicle

and chauffeur for a period of time that is not less than thirty (30) minutes by prearrangement and not by soliciting on the streets." 18.3.1.7.L NMAC.

**Other type of specialized passenger service** (fully describe below)  
See Attachment 1 hereto for full description of  
specialized passenger services

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D. **HOUSEHOLD GOODS** (NMSA 1978, §65-2A-3(Y)):  
"Household goods service means the intrastate transportation, packing and storage of household goods for hire."

E. **AMBULANCE SERVICE** (NMSA 1978, §65-2A-3(B)):  
"Ambulance service means the intrastate transportation of sick or injured persons in an ambulance meeting the standards established by the commission under the Ambulance Standards Act [in 18.3.13 NMAC]."

**DESCRIPTION OF TERRITORY TO BE SERVED (Does not apply to Shuttle Services – see Exhibit G):**

V. **(By county only) From Points and Places in:**

Bernalillo County & the City of Rio Rancho

---

and Return.

**To Points and Places:**

Bernalillo County & the City of Rio Rancho

---

and Return

**STATEWIDE** (To and from all Counties throughout the State of New Mexico)

**VI. EQUIPMENT TO BE STATIONED** (Physical address):

N/A

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**VII. BALANCE SHEET**

**BALANCE SHEET AS OF** April 23, 2014

You may provide your own balance sheet as an attachment, however, if you do so, it must be separately notarized. Please provide an income statement for the latest fiscal year if available.

**ASSETS**

<b>Cash on Hand</b>	<b>\$</b>	<b>0.00</b>
<b>Notes Receivable</b>	<b>\$</b>	<b>0.00</b>
<b>Accounts Receivable</b>	<b>\$</b>	<b>0.00</b>
<b>Investments: Bonds &amp; Stocks, etc.</b>	<b>\$</b>	<b>0.00</b>
<b>Equipment</b>	<b>\$</b>	<b>0.00</b>
<b>Real Estate</b>	<b>\$</b>	<b>0.00</b>
<b>Other Assets</b>	<b>\$</b>	<b>0.00</b>
<b>TOTAL ASSETS \$</b>	<b>\$</b>	<b>0.00</b>

**LIABILITIES**

<b>Notes Payable</b>	<b>\$</b>	<b>0.00</b>
<b>Accounts Payable</b>	<b>\$</b>	<b>0.00</b>
<b>Liens, Encumbrances or Chattel on Equipment</b>	<b>\$</b>	<b>0.00</b>
<b>Liens on Real Estate</b>	<b>\$</b>	<b>0.00</b>
<b>Other Liabilities</b>	<b>\$</b>	<b>0.00</b>
<b>TOTAL LIABILITIES</b>	<b>\$</b>	<b>0.00</b>

**NET WORTH (ASSETS MINUS LIABILITIES)** **\$** **0.00**

## **OATH OF APPLICANT**

**The signature must be that of the Applicant, not legal representative.**

**I certify that I will abide by all New Mexico Public Regulation Commission Rules & Regulations. I understand that the New Mexico Public Regulation Commission has also adopted & enforces Federal Motor Carrier Safety Regulations and Federal Hazardous Materials Regulations found in Title 49, Code of Federal Regulations, Chapter 3, with the variances adopted by the Motor Transportation Division of the New Mexico Department of Public Safety. I certify that all motor vehicles, and the drivers operating the vehicles, used in providing the services sought to be authorized meet the safety requirements of the Federal Motor Carrier Safety Regulations and the Federal Hazardous Materials Regulations.**

**I certify that I have sent in a COMPLETE application. I understand that if my application is INCOMPLETE, my application will be returned to me and I will have twenty (20) days to cure the deficiencies. I also understand that all fees paid will be forfeited to the state.**

**I certify that I am fit and able to provide the applied for transportation service, as evidenced by this affidavit, the above balance sheet, and all exhibits attached here to.**

**I also certify that I abide by all rules and regulations stated in the New Mexico Public Regulation Commission Motor Transportation Rules.**

**I further certify that I am authorized to make this application and affirm that the facts, statements and representations contained in this application and its attachments are true and correct to the best of my knowledge. I know that willful misstatements or omissions of material facts constitute administrative and criminal violations punishable by imprisonment and fines.**

I hereby swear and attest that I have read the Motor Carrier Act (§§ 65-2A-1 to 41 NMSA 1978) and the Commission's Motor Transportation Rules, and have a working knowledge of the contents therein, and will operate any authority permitted by the Commission in compliance with the Motor Carrier Act and the Commission's Rules.

Signed: [Signature] Title (If Any): \_\_\_\_\_

Date: 4/22/2014

STATE OF California

COUNTY OF San Francisco

The person listed above personally appeared before the undersigned Notary Public in & for said County, in said State, who, being by me first duly sworn, says that he/she is authorized to make this application and that the facts, statements & representations contained in the application and attachments are true and correct to the best of his/her knowledge, information & belief.

Sworn & subscribed to before me this 22<sup>nd</sup> day of April 2014.

(SEAL) [Signature]  
Notary Public

My Commission expires:  
12/23/2017



State of California  
County of San Francisco  
Subscribed and sworn to (or affirmed)  
before me this 22 day of April, 2014,  
by Travis Kalanick  
proved to me on the basis of satisfactory evidence  
to be the person(s) who appeared before me:  
Signature [Signature]  
(Seal)

1

### **Description of Specialized Passenger Service**

Hinter-NM, LLC (“Hinter”) will provide specialized passenger service to residents and visitors in Bernalillo County and Rio Rancho to meet an identified demand for convenient, reliable passenger service in which the pickup time can be pre-arranged within a short time frame. The specialized passenger service will not have a fixed route or schedule. It will be for hire by the public, who may request specialized transportation services from drivers who have entered into a written agreement with Hinter through the specialized software application that Hinter will license from a software technology company. Drivers will contract with Hinter to use the software platform to receive requests for transportation. The charge for transportation services provided by drivers who have contracted with Hinter will be made based on time and/or distance, or for a flat fee between certain destinations. Rates may be viewed in the software application or online, and an option is available for users to estimate fare through the software application prior to requesting transportation services from Hinter. Hinter will increase the safety of public transportation, reduce the carbon footprint and expand the demand for motor carriers by appealing to the subset of individual residents who feel that they are dependent on using their own vehicle even at inopportune times, when a passenger service could be more convenient and economical.

A

NOT APPLICABLE

**B**

NOT APPLICABLE

C



STATE OF NEW MEXICO  
**DIANNA J. DURAN**

SECRETARY OF STATE

**April 14, 2014**

UBER TECHNOLOGIES, INC.  
706 MISSION ST FL 9  
SAN FRANCISCO CA 0  
SELENE HAKOBYAN

**RE: HINTER-NM, LLC**

Entity ID: 4892607

The Office of the Secretary of State has approved and filed the Application For Registration for the above captioned organization effective April 2, 2014. The enclosed Certificate Of Registration is evidence of filing, and should become a permanent document of the organization's records.

The referenced approval does not constitute authorization for the above referenced organization to transact any business which requires compliance with other applicable federal or state laws, including, but not limited to, state licensing requirements. It is the organizations's sole responsibility to obtain such compliance with all legal requirements applicable thereto prior to engaging in the business for which it has obtained approval of the referenced document.

Your canceled check, as validated by this office, is your receipt. If you have any questions please contact the Corporations Bureau at (505) 827-4508 or toll free at 1-800-477-3632 for assistance.

Corporations Bureau

**OFFICE OF THE SECRETARY OF STATE**  
**NEW MEXICO**

*Certificate Of Registration*

OF

**HINTER-NM, LLC**

**4892607**

The Office of the Secretary of State certifies that the Application For Registration, duly signed and verified pursuant to the provisions of the

**Limited Liability Company Act**

**(53-19-1 To 53-19-74 NMSA 1978)**

have been received and are found to conform to law. Accordingly, by virtue of the authority vested in it by law, the Office of the Secretary of State issues this Certificate Of Registration and attaches hereto a duplicate of the Application For Registration.

Dated : **April 2, 2014**

**In testimony whereof, the Office of the Secretary of State has caused this certificate to be signed on this day in the city of Santa Fe, and the seal of said office to be affixed hereto.**



A handwritten signature in cursive script, reading "Dianna J. Duran".

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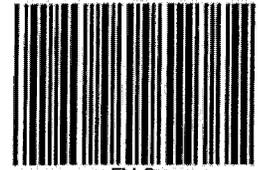
**Dianna J. Duran**  
**Secretary of State**



New Mexico  
**Secretary of State**  
325 Don Gaspar, Suite 300 · Santa Fe, NM 87501  
(800) 477-3632 · www.sos.state.nm.us

FILED  
SOS  
Corporation Bureau

APR 02 2014



\*FLLC\*

**SUBMIT ORIGINAL AND A COPY**  
**TYPE OR PRINT LEGIBLY**

**Foreign Limited Liability Company  
APPLICATION FOR REGISTRATION**

The undersigned limited liability company, in order to apply for a Certificate of Registration to transact business in New Mexico under the Limited Liability Company Act, submits the following statement to the Secretary of State:

1. The name of the limited liability company is: Hinte-NM, LLC

2. If it proposes to transact business in New Mexico under a different name, the name it elects for use in New Mexico is:

3. It is organized under the laws of:

Delaware

4. The date of organization in its domestic state is:

March 21, 2014

5. If so required by the laws of the domestic state, the address of the office required to be maintained in the domestic state is:

706 Mission St., 9th Floor, San Francisco, CA 94103

6. If the laws of the domestic state do not require an address to be maintained in that state, then the address of the principal office of the limited liability company is:

182 Howard St. #8, San Francisco, CA 94105

7. The street address of the registered office in New Mexico is:

123 East Marcy, Santa Fe, New Mexico 87501

(P.O. Box is not acceptable. Provide a description of the geographical location if a street address does not exist)

RECEIVED  
SOS  
Corporation Bureau

APR 02 2014



New Mexico  
**Secretary of State**  
 325 Don Gaspar, Suite 300 · Santa Fe, NM 87501  
 (800) 477-3632 · www.sos.state.nm.us

FILED  
 SOS  
 Corporation Bureau

APR 02 2014

The name of the registered agent at the address of the New Mexico registered office is:

**National Registered Agents, Inc.**

8. The names of the persons in whom management of the limited liability company is vested are:

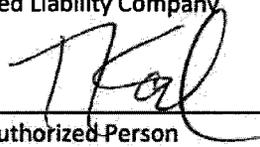
**Travis Kalanick, Manager**

The company is a foreign limited liability company as defined in Section 2 of the New Mexico Limited Liability Company Act. The Secretary of State is appointed the agent of the foreign limited liability company for service of process if, upon resignation of the appointed registered agent no agent has been appointed, or, if appointed, the agent's authority has been revoked or the agent cannot be found or served in the exercise of reasonable diligence.

Dated: March 23, 2014

Hinter-NM, LLC

Name of Limited Liability Company

By   
 Signature of Authorized Person

THIS APPLICATION MUST BE ACCOMPANIED BY A CERTIFICATE OF GOOD STANDING / EXISTENCE, ISSUED BY THE APPROPRIATE OFFICIAL CUSTODIAN OF LIMITED LIABILITY COMPANY RECORDS FOR THE STATE OR COUNTRY UNDER THE LAWS OF WHICH THE COMPANY IS ORGANIZED. THIS CERTIFICATE MUST BE ORIGINAL OR ELECTRONICALLY ISSUED, AND MUST BE CURRENT WITHIN THIRTY DAYS OR HAS NOT EXPIRED, UPON SUBMISSION TO THE SECRETARY OF STATE.

Form FLLC  
 (revised 06/13)

RECEIVED  
 SOS  
 Corporation Bureau  
 APR 02 2014



New Mexico  
**Secretary of State**

325 Don Gaspar, Suite 300 · Santa Fe, NM 87501  
(800) 477-3632 · www.sos.state.nm.us

STATEMENT OF ACCEPTANCE OF APPOINTMENT  
BY DESIGNATED INITIAL REGISTERED AGENT

I, National Registered Agents, Inc., hereby  
acknowledge that the undersigned individual or corporation accepts the appointment as Initial

Registered Agent of Hinter-NM, LLC, the limited liability  
company which is named in the annexed Application for Registration of Foreign Limited Liability  
Company.

\_\_\_\_\_  
(Sign on this line if the registered agent named in the application is an individual.  
If this line is signed, the two lines below do not apply and must be left blank.)

\_\_\_\_\_  
(If the following lines are used, the signature line above does not apply and must be left blank)

National Registered Agents, Inc.

(If the registered agent named in the application is a corporation, limited liability Company, or  
partnership, type or print the name of that entity here.)

By Joelle Churik  
(An authorized person of the entity being appointed as registered agent must sign here)  
JOELLE CHURIK, ASST. SECRETARY

# Delaware

PAGE 1

*The First State*

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY "HINTER-NM, LLC" IS DULY FORMED UNDER THE LAWS OF THE STATE OF DELAWARE AND IS IN GOOD STANDING AND HAS A LEGAL EXISTENCE SO FAR AS THE RECORDS OF THIS OFFICE SHOW, AS OF THE TWENTY-FIRST DAY OF MARCH, A.D. 2014.

AND I DO HEREBY FURTHER CERTIFY THAT THE SAID "HINTER-NM, LLC" WAS FORMED ON THE TWENTY-FIRST DAY OF MARCH, A.D. 2014.

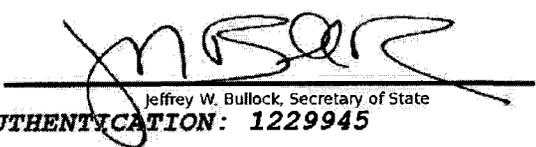
AND I DO HEREBY FURTHER CERTIFY THAT THE ANNUAL TAXES HAVE NOT BEEN ASSESSED TO DATE.

5502598 8300

140365890



You may verify this certificate online  
at [corp.delaware.gov/authver.shtml](http://corp.delaware.gov/authver.shtml)

  
Jeffrey W. Bullock, Secretary of State  
AUTHENTICATION: 1229945

DATE: 03-21-14

D

# OFFICE OF THE SECRETARY OF STATE NEW MEXICO

## Certificate of Good Standing and Compliance

IT IS HEREBY CERTIFIED THAT:

**HINTER-NM, LLC**  
**4892607**

An organization organized under the laws of Delaware is duly authorized to transact business in New Mexico, as a Foreign Limited Liability Company, under the

**Limited Liability Company Act - (53-19-1 To 53-19-74 NMSA 1978)**

having filed its Articles Of Registration on April 2, 2014 and Certificate Of Good Standing issued as of said date.

It is further certified that the fees due the Office of the Secretary of State which have been assessed against the above named entity, have been paid to date and is in corporate good standing and duly authorized to transact business as its corporate existence has not been revoked in New Mexico. This certificate is not to be construed as an endorsement, recommendation, or notice of approval of the entities financial condition or business activities and practices.

This good standing status expires when existence ceases as provided by law.

Certificate issued on **April 17, 2014**

**In testimony whereof, the Office of the Secretary of State has caused this certificate to be signed on this day in the city of Santa Fe, and the seal of said office to be affixed hereto.**



A handwritten signature in cursive script, reading "Dianna J. Duran".

**Dianna J. Duran**  
**Secretary of State**

**E**

**Current Officers of Hinter-NM, LLC**

Name: Travis Kalanick

Address: 706 Mission Street Floor 9  
San Francisco, CA 94103

F

**Proposed Tariff**

\$3 base fare + \$0.20/minute and \$1.95/mile

Minimum fare \$5

G

NOT APPLICABLE

H

NOT APPLICABLE

1

NOT APPLICABLE

J

**K**

NOT APPLICABLE

L

NOT APPLICABLE

M

N





**ADDITIONAL REMARKS SCHEDULE**

AGENCY MARSH USA, INC.		NAMED INSURED Rasier LLC, Rasier-CA LLC Rasier-DC LLC, and Hinter-NM LLC 706 Mission St 9th Floor San Francisco, CA 94103	
POLICY NUMBER		EFFECTIVE DATE:	
CARRIER	NAIC CODE		

**ADDITIONAL REMARKS**

**THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,**  
**FORM NUMBER: 25 FORM TITLE: Certificate of Liability Insurance**

1. Pursuant to policy terms and conditions:
  - a. "Named Operators" are drivers that have entered into a contract with a Named Insured (including Rasier LLC) prior to the time of an accident.
  - b. Covered autos are private passenger vehicles being used following the Named Operator's logged and recorded acceptance in the Uber application to transport passenger(s) while the Named Operator is i) en route to pick up that passenger or ii) is transporting that passenger to their destination.
  - c. Named Operators are insureds, and this coverage is excess of any other collectible insurance, but if no other coverage exists, this coverage will act as primary coverage
2. This is an evidence of coverage certificate
3. Hinter -NM LLC is a named insured effective May 7, 2014.

0

P

# FEDERAL ANNUAL INSPECTION

THIS VEHICLE HAS PASSED AN ANNUAL INSPECTION  
CONDUCTED IN ACCORDANCE WITH 49 CFR, PART 396, FMCSR

MONTH **5** YEAR **14**

**D8661693**

VEHICLE ID (Company No.)

STATE/TAG NO. OR VIN

**XM16S1W69E1121611**

LOCATION OF RECORDS:

Company Hodges Automotive

Street Address 9718 Turnbull Av. SE

City, State, Zip ABQ N.M 87123

DATE  
5/12/14

**RECORD OF ANNUAL INSPECTION**

(49 CFR, 396.17-23)

Prepare Separate Report for Each Vehicle Inspected

D8601693

COMPANY NAME Hinter-UM LLC			VEHICLE TYPE <input type="checkbox"/> TRUCK <input type="checkbox"/> TRACTOR <input type="checkbox"/> TRAILER <input type="checkbox"/> CONVERTER <input type="checkbox"/> DOLLY		
STREET ADDRESS			VEHICLE MAKE Mazda	MODEL 6	YEAR 2011
CITY	STATE	ZIP	VEHICLE IDENTIFICATION (Company No., State Tag No. or VIN) JM1G31W69E1121611		
INSPECTOR'S NAME (Please Print) SACK Hodgrs				EMPLOYEE NO.	

**REPORT OF CONDITION** (For Detailed Information on Inspection Procedures see FMCSR Section 396, Appendix G)

	OK	REPAIR		OK	REPAIR		OK	REPAIR		OK	REPAIR
<b>BRAKES</b>			<b>EXHAUST</b>			<b>STEERING</b>			<b>FRAME</b>		
Adjustment	✓		Leaks	✓		Adjustment	✓		Members	✓	
Mechan. Compon.	✓		Placement	✓		Column/Gear	✓		Clearance	✓	
Drum/Rotor	✓		<b>LIGHTING</b>			Axle	✓				
Hose/Tubing	✓		Headlights	✓		Linkage	✓		<b>TIRES</b>		
Lining	✓		Tail/Stop	✓		Power Steering	✓		Tread	✓	
Low Air Warning	NA		Clearance/Marker	✓		Other	✓		Inflation	✓	
Trailer Air Supply	NA		Identification	✓		<b>FUEL SYSTEM</b>			Damage	✓	
Compressor	NA		Reflectors	✓		Tank(s)	✓		Other	✓	
Parking Brakes	✓		Other			Lines	✓				
Other			<b>CAB/BODY</b>			<b>SUSPENSION</b>			<b>WHEELS/RIM</b>		
<b>COUPLERS</b>			Access	✓		Springs	✓		Fasteners	✓	
Fifth-Wheel & Mount			Eqpt./Load Secure	✓		Attachments	✓		Disc/Spoke	✓	
Pin/Upper Plate			Tie-Downs	✓		Sliders	✓		<b>WINDSHIELD</b>		
Pintle-Hook/Eye	✓		Headerboard	✓		<b>MIRRORS</b>			<b>WINDSHLD. WIP.</b>		
Safety Chain(s)			Other								

REMARKS

Certification: This vehicle has passed all the inspection items for the annual vehicle inspection in accordance with 49 CFR Part 396.

QUALIFIED INSPECTOR'S SIGNATURE

DATE

APPLY LABEL TO A CLEAN, DRY SURFACE. USE WITH AN OVERLAMINATE (221-SN) TO IMPROVE DURABILITY UNDER NORMAL WEATHER CONDITIONS.

AN INDELIBLE INK MARKER IS RECOMMENDED FOR USE WHEN FILLING OUT THE LABEL. INDELIBLE INK IS PERMANENT AND WILL NOT WASH OFF, BUT MAY FADE DUE TO EXPOSURE TO ULTRAVIOLET LIGHT OVER TIME. CAREFUL DISCRETION IS ADVISED REGARDING APPLICATION OF LABEL TO AN AREA NOT EXPOSED TO EXCESSIVE ULTRAVIOLET LIGHT AND/OR ELEMENTS AND IT IS RECOMMENDED THAT THE READABILITY OF THE LABEL BE CHECKED PERIODICALLY.

D8601693



# BRAKE INSPECTOR QUALIFICATIONS

Certification — 49 CFR — Part 396.25

"Brake Inspector" means any employee of a motor carrier who is responsible for ensuring all brake inspections, maintenance, service, or repairs to any commercial motor vehicle, subject to the motor carrier's control, meet the applicable Federal standards.

No motor carrier shall require or permit any employee who does not meet minimum brake inspector qualifications to be responsible for the inspection, maintenance, service or repairs of any brakes on its commercial motor vehicles.

## Minimum Qualifications

- Understands and can perform brake service and inspection
- Is knowledgeable of and has mastered the methods, procedures, tools and equipment necessary to perform brake service and inspection
- Is capable of performing brake service or inspection by reason of experience, training, or both, and qualifies in one of the following categories (check all that apply):

- I.  Has successfully completed an apprenticeship program sponsored or approved by a State, Canadian Province, a Federal agency or labor union, or has a certificate from a State or Canadian Province which qualifies the person to perform brake service or inspections. Specify:

From training done at SNOVA JABS 1996

or

- II.  Has brake-related training or experience or a combination thereof totaling at least one year as follows (check all that apply):

- A.  Participation in a brake maintenance or inspection training program sponsored by a brake or vehicle manufacturer or similar commercial training program. Where and Date:

- B.  \_\_\_\_\_ (years) experience performing brake maintenance or inspection in a motor carrier maintenance program. Name and Date:

- C.  \_\_\_\_\_ (years) experience performing brake maintenance or inspection at a commercial garage, fleet leasing company, or similar facility. Name of Facility and Dates:

Hobbs auto 35 yrs

I certify the above information is true and accurate to the best of my knowledge.

Jed Dade 5/12/14  
Signature of Motor Carrier Inspector Date

Jed Dade 5/12/14  
Signature of Employer/Supervisor Date

Evidence of Inspector Qualifications are on file at:

Hobbs auto 9715 Remboy Ave SE  
Albuquerque NM 87123

# INSPECTOR QUALIFICATIONS

Certification 49 CFR Part 396.19

Motor carriers are responsible for ensuring that individual(s) performing an annual inspection under 396.19 are qualified as follows:

- Understands the inspection criteria set forth in Part 393 and Appendix G and can identify defective components
- Is knowledgeable of and has mastered the methods, procedures, tools and equipment used when performing an inspection
- Is capable of performing an inspection by reason of experience, training, or both, and qualifies in one of the following categories (check all that apply):

- I.  Successfully completed a State or Federal training program or has certificate from a State or Canadian Province which qualifies the individual to perform commercial vehicle safety inspections. Specify:

Federal Training Done at Santa ANTONIO MO 1996

or

- II.  Have a combination of training or experience totaling at least one year as follows (check all that apply):

- A.  Participation in a truck manufacturer-sponsored training program or similar commercial training program designed to train students in truck operation and maintenance. Where and Date:

General Motors 2001 ASE NATE Training May

- B.  18 (years) experience as a mechanic or inspector in a motor carrier maintenance program. Name and Date:

JACK HODGES 1996 Hodges Automobile

- C.  \_\_\_ (years) experience as a mechanic or inspector in truck maintenance at a commercial garage, fleet leasing company, or similar facility. Name of Facility and Dates:

- D.  \_\_\_ (years) experience as a commercial vehicle inspector for a State, Provincial, or Federal Government. Where and Dates:

I certify the above information is true and accurate to the best of my knowledge.

Jed Hodges Signature of Mechanic/Inspector 5/12/14 Date

Jed Hodges Signature of Employer/Supervisor 5/12/14 Date

Evidence of Inspector Qualifications are on file at:

Hodges Automobile 9718 Trumbull Ave SE 87123  
Albuquerque NM.

Q



inspection report.

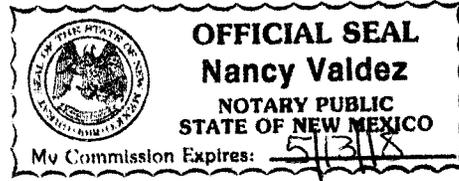
6. Based upon my review, I hereby verify that the independent driver's vehicle complies with NMAC § 18.3.4.11.

  
Paul Melendres

Sworn to before me this  
5<sup>th</sup> day of May 2014

  
Notary Public

My Commission Expires: 5/13/18



R

## **Drug Policy**

While Hinter-NM, LLC (“Hinter”) does not have any employees and as such cannot require a drug exam, Hinter does perform multi-state, federal and county level background checks prior to entering into an agreement with a transportation provider and has a zero tolerance policy for drug offenses.

S

**BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION**

IN THE MATTER OF THE APPLICATION)  
OF HINTER-NM, LLC, FOR A )  
CERTIFICATE TO PROVIDE )  
SPECIALIZED PASSENGER SERVICE )  
AND TEMPORARY AUTHORITY )

Case No. 14-

**WORKERS' COMPENSATION INSURANCE EXEMPTION**  
**CERTIFICATION OF TRAVIS KALANICK**

STATE OF CALIFORNIA )  
 ) ss.:  
COUNTY OF SAN FRANCISCO )

I, Travis Kalanick, hereby certify that Hinter-NM, LLC ("Hinter") employs fewer than three employees and is therefore not subject to the provisions of the Workers' Compensation Act of the State of New Mexico. I further certify that should Hinter employ three or more persons during the term of its agreement with the City, Hinter will comply with the provisions of the New Mexico Workers' Compensation Act and provide proof of such compliance to the City of Albuquerque.

  
\_\_\_\_\_  
Travis Kalanick

MELENDRES, MELENDRES & HARRIGAN, PC  
1017 5TH ST NW  
ALBUQUERQUE, NM 87102-2140  
(505) 243-8310

BANK OF AMERICA, NA  
95-32/1070

6318

04/20/2014

PAY TO THE ORDER OF NM PRC

\$ \*\*250.00

Two hundred fifty and 00/100\*\*\*\*\* DOLLARS

NM PRC



MEMO

⑈006318⑈ ⑆107000327⑆ 439003345582⑈

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Details on Back  
Intuit® CheckLock™ Secure Check

**BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION**

**IN THE MATTER OF THE PETITION OF THE )  
TRANSPORTATION DIVISION OF THE NEW )  
MEXICO PUBLIC REGULATION COMMISSION )  
FOR ISSUANCE OF AN ORDER TO SHOW CAUSE )  
AND CEASE AND DESIST AGAINST LYFT, INC. )**

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**Case No. 14-00124-TR-EN**

NEW MEXICO  
PUBLIC REGULATION  
COMMISSION  
FILED  
2014 JUN 2 PM 3

**LYFT, INC'S ANSWER TO ORDER TO SHOW CAUSE AND CEASE AND DESIST**

Lyft, Inc., by and through its attorneys, Stelzner, Winter, Warburton, Flores, Sanchez & Dawes, P.A., responds to the Order to Show Cause and Cease and Desist as follows:

**I. INTRODUCTION**

Lyft's mobile-phone application (the "Lyft Platform" or "app") facilitates peer-to-peer ridesharing. Intended to replicate asking a friend with a car for a ride, the Lyft Platform allows those looking for a ride to connect with those who have cars. Based on unfounded assumptions (and without allowing Lyft to clarify), the Commission determined that Lyft failed to comply with a number of provisions of the Motor Carrier Act (MCA) and its implementing regulations. The Commission proposes to assess penalties, and moreover, issued a cease and desist order attempting to require Lyft to stop its operations before even having an opportunity to be heard.

However, Lyft is not a taxi service. Lyft is instead a transportation network that uses a digital platform to match passengers to individuals who wish to use their personal vehicles to transport others. Lyft began operations in San Francisco in 2007 as an online carpooling community and launched the Lyft Platform several years later. Lyft aims to close gaps in service and leverage a major, untapped transportation resource: empty seats in passenger vehicles. Peer-to-peer networks such as Lyft are important developments in modern transportation planning, resource management, carbon reduction, air quality, economic growth and sustainable community

development and can help to reduce urban congestion, drunk driving, greenhouse gas emissions, and other problems associated with single-occupant driving. Indeed, Lyft users have repeatedly indicated the Lyft Platform provides a safe, timely, reliable, affordable and personable way to contact alternative transportation. *See* attached Affidavit of Felipe Pereira and accompanying Statements of Support and accumulated petition signatures, attached hereto as Exhibit A.

Lyft does not deploy or centrally dispatch vehicles, own a fleet of vehicles, have a defined territory in which it provides service, nor does it allow riders to hail a Lyft vehicle from the street. *See* Affidavit of Jim Black, attached hereto as Exhibit B, ¶ 3. Lyft merely allows individuals to connect through the app. *Id.*

To use the Lyft service, riders must have a credit card on file, and use a GPS-enabled smart phone. *Id.*, ¶ 8. At the end of the ride, drivers and riders rate each other through the app, and any driver or rider whose ratings fall below a certain threshold is removed from the community. *Id.*, ¶ 10. Once they have completed the ride, riders are presented with a suggested donation amount. That donation is entirely discretionary. Riders are free to donate the suggested amount, a greater amount, a lesser amount, or nothing. If any amount is donated, that transaction takes place through the app. *Id.*, ¶ 11. Lyft does not charge a set fare in New Mexico, nor does it display that fare to passengers on a meter.

Lyft simply does not provide the type of motor carrier service falling within the scope of the Motor Carrier Act. The Commission therefore lacks jurisdiction to assess any penalties, and further, lacks authority to stop Lyft from operating. Having issued its Show Cause and Cease and Desist Order in the absence of jurisdiction, and without affording Lyft due process, the Commission must vacate the order, and discontinue its efforts to regulate or sanction Lyft under the MCA.

## II. THE COMMISSION LACKS JURISDICTION

The Commission is an administrative body, with jurisdiction limited by statute. *El Paso Elec. Co. v. N.M. Public Regulation Commission*, 2010-NMSC-048, ¶ 6, 149 N.M. 174, 246 P.3d 443; *Morningstar Water Users Ass'n v. New Mexico Public Utility Com'n*, 1995-NMSC-062, ¶ 13, 120 N.M. 579, 904 P.2d 28.

Here, the Commission attempts to exercise its jurisdiction under the Motor Carrier Act,<sup>1</sup> NMSA 1978 §§ 65-2A-1 *et seq.* by jumping to the conclusion that Lyft is a taxi service. The Commission alleges in particular that Lyft is violating NMSA 1978, §65-2A-7(A)(2013) and Rule 18.3.2.8 NMAC, by providing a transportation service for hire within the state without an appropriate operating authority from the Commission, and has violated Rule 18.3.2.8(C)(1) NMAC, by providing taxicab services without a certificate or permit.

The Commission's reliance on the MCA and associated regulations is misplaced.<sup>2</sup> The Commission's jurisdiction under the MCA is limited to "motor carriers." *See* NMSA 1978 § 65-2A-4. The MCA defines a "carrier" as "a person offering or providing transportation of persons, property or household goods for hire by motor vehicle, whether in intrastate or interstate

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<sup>1</sup> Although the Commission alleges a number of violations, all of the provisions on which it relies are part of the MCA, or its implementing regulations.

<sup>2</sup> New Mexico courts will accord "little deference" to the agency's own interpretation of its jurisdiction. *Morningstar Water Users Ass'n*, 1995-NMSC-062, ¶ 13. The Court is "not bound by the agency's interpretation and may substitute its own independent judgment for that of the agency because it is the function of the courts to interpret the law." *Rodriguez v. Permian Drilling Corp.*, 2011-NMSC-032, ¶ 8, 150 N.M. 164, 258 P.3d 443. *See, Citizen Action v. Sandia Corporation*, 2008 NMCA-031, ¶ 12, 143 N.M. 620, 179 P.3d 1228. (Supreme Court will determine de novo whether an agency has jurisdiction over the parties or the subject matter of a case.) The subject matter jurisdiction of an administrative agency is defined by statute, and an agency is limited to exercising only the authority granted by statute. *See Martinez v. N.M. State Eng'r Office*, 2000-NMCA-074, ¶ 22, 129 N.M. 413, 9 P.3d 657.

commerce.” NMSA 1978 § 65-2A-3(FF). “[F]or hire’ means that transportation is offered or provided to the public for remuneration, compensation or reward of any kind, paid or promised, either directly or indirectly.” NMSA 1978 § 65-2A-3(S).<sup>3</sup>

Lyft does not “offer or provide transportation” of any persons or goods “by motor vehicle.” Rather, Lyft provides information and a method to connect participants who need transportation (riders) with participants who are willing to provide such transportation (drivers). In fact, Lyft’s Terms of Service, attached hereto as Exhibit C, expressly state:

LYFT DOES NOT PROVIDE TRANSPORTATION SERVICES, AND LYFT IS NOT A TRANSPORTATION CARRIER. IT IS UP TO THE DRIVER OR VEHICLE OPERATOR TO DECIDE WHETHER OR NOT TO OFFER A RIDE TO A RIDER CONTACTED THROUGH THE LYFT PLATFORM, AND IT IS UP TO THE RIDER TO DECIDE WHETHER OR NOT TO ACCEPT A RIDE FROM ANY DRIVER CONTACTED THROUGH THE LYFT PLATFORM. ANY DECISION BY A USER TO OFFER OR ACCEPT TRANSPORTATION ONCE SUCH USER IS MATCHED THROUGH THE LYFT PLATFORM IS A DECISION MADE IN SUCH USER’S SOLE DISCRETION. LYFT OFFERS INFORMATION AND A METHOD TO CONNECT DRIVERS AND RIDERS WITH EACH OTHER, BUT DOES NOT AND DOES NOT INTEND TO PROVIDE TRANSPORTATION SERVICE OR ACT AS A TRANSPORTATION CARRIER.

*See also* Affidavit of Jim Black.

Furthermore, Lyft does not offer or provide transportation for remuneration in New Mexico. Lyft instead merely connects riders and drivers, and allows riders to make a discretionary donation to the driver. Lyft makes this clear in its Terms of Service, stating:

You [the rider] may elect to make a voluntary donation (“Donation”) for the ride a Driver has provided to You. The decision whether to make a Donation and the amount of the Donation is at Your [the rider’s] sole discretion, and the Driver will not receive any compensation or consideration for providing You a ride other than the amount (if any) of this voluntary donation.

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<sup>3</sup> Just 3 months ago, in *Albuquerque Cab Company v. New Mexico Public Regulation Commission*, the New Mexico Supreme Court pointedly noted that the MCA was “not a model of clarity.” *Albuquerque Cab*, 2014-NMSA-004. Lyft has to agree; given the Commission’s various interpretations, Lyft could also be considered multiple other types and forms of transportation. In fact, the Commission’s interpretation could subject individuals offering rides to friends for gas money to PRC regulation.

*See* Terms of Service; *see also* Black Affidavit ¶ 11.

Neither Lyft nor the driver has the right to demand that a New Mexico rider donate any money to the driver. Riders may elect to decline to donate altogether. And Lyft receives no compensation directly from the rider, instead receiving from the driver a portion of any donation made. *See* Terms of Service. Because Lyft does not “offer or provide transportation” “for hire”, it is not a carrier under the MCA. *See* NMSA 1978 § 65-2A-3. The Commission therefore does not have authority to regulate Lyft’s service of connecting individuals. *See* NMSA 1978 § 65-2A-4. Because the Commission’s efforts to penalize Lyft and to halt its operations are entirely without statutory support the Commission should vacate its Show Cause and Cease and Desist Order, and immediately discontinue its efforts to apply the MCA to Lyft.

### **III. THE COMMISSION’S ORDER VIOLATES DUE PROCESS**

The Show Cause and Cease and Desist Order is not only substantively invalid, but also procedurally invalid. The Commission issued a cease and desist order, purportedly compelling Lyft to halt all operations, without providing Lyft any notice or an opportunity to be heard. Yet, when the Commission’s actions clearly affect property or liberty interests, it must comply with the constitutional requirements of due process. *See Archuleta v. Santa Fe Police Dept.*, 2005-NMSC-006, ¶ 31; *TW Telecom of N.M. v. N.M. Pub. Reg. Comm’n*, 2011-NMSC-029, ¶¶ 21-22, 256 P.3d 24.

“Due process is flexible and calls for such procedural protections as the particular situation demands.” *Id.*; *see also, e.g. Bass Enter. Prod. Co. v. Mosaic Potash Carlsbad Inc.*, 2010-NMCA-065, ¶ 51. “Constitutional due process does not require an agency to afford a petitioner all elements of a traditional judicial proceeding.” *Archuleta*, 2005-NMSC-006, ¶ 32. Nonetheless, “[i]t is well settled that the fundamental requirements of due process in an

administrative context are reasonable notice and *opportunity to be heard and present any claim or defense.*" *TW Telecom of N.M. v. N.M. Pub. Reg. Comm'n*, 2011-NMSC-029, ¶ 17, 256 P.3d 24 (internal quotation marks omitted; emphasis in original). This means that "[g]enerally, due process requires notice and hearing *before* deprivation." *Sandia v. Rivera*, 2002-NMCA-057, ¶ 12, 46 P.3d 108 (emphasis added); *Rayellen Resources, Inc. v. N.M. Cultural Properties Review Committee*, 2014-NMSC-006, ¶ 19, 319 P.3d 639 ("Procedural due process requires notice and the opportunity to be heard before a deprivation by the state can occur.").

When determining what process is due in an administrative proceeding, the following factors must be balanced: "(1) the private interest that will be affected by the official action; (2) the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional procedural safeguards; and (3) the [g]overnment's interest, including the fiscal and administrative burdens that the additional or substitute procedures would entail." *Bass*, 2010-NMCA-065, ¶ 51.

Lyft clearly has an interest in continuing to operate, which was directly affected by the Commission's action. And the risk of erroneously depriving Lyft of its ability to operate was high, in light of the Commission's complete failure to provide any process before issuing a cease and desist order. Similarly, because the Commission afforded Lyft no procedural safeguards, additional procedural precautions would substantially reduce the risk of erroneous deprivation. Finally, the government's interest in immediately depriving Lyft of the ability to operate is minimal. In fact, as discussed below, the Commission has little, if any, interest in compelling Lyft to cease its operations.

In these circumstances, it is clear the Commission issued its Show Cause and Cease and Desist Order without meeting the minimum requirements of due process.

#### IV. LYFT BENEFITS THE PUBLIC

In seeking to regulate Lyft, the Commission suggests Lyft poses some kind of risk because it has not satisfied safety and financial responsibility rules promulgated by the Commission. Yet, the Commission cannot demonstrate that Lyft's current operations create any immediate risk to the Commission or the general public. Quite the contrary, Lyft observes strict requirements to protect drivers and riders. *See generally*, Black Affidavit. To use the Lyft Platform as a driver, a community member must authorize Lyft to obtain driving record checks and criminal background checks, go through an in-person interview and vehicle inspection, be at least 21 years old, have held a valid U.S. driver's license for at least one year, have a clean driving record and no history of theft, violent crime, or property damage. *See Id.*, ¶¶ 12-16. Lyft also uses a rating system, allowing it to remove drivers who demonstrate concerning or risky behavior. *See Id.*

The drivers participating in the Lyft platform are both insured and licensed to drive. *See* Lyft Terms of Service. And Lyft provides drivers with an excess liability insurance policy covering up to \$1,000,000 per occurrence. *See Id.*; *see also* Black Affidavit, ¶ 18.

Far from posing a detriment to public safety, Lyft improves public safety. Lyft potentially contributes to a reduction in the number of vehicles on the road, and a reduction in potentially dangerous behaviors such as driving under the influence of alcohol or drugs, by facilitating ridesharing.

The Commission's suggestion that Lyft poses a risk is also belied by the ongoing operation of a direct Lyft competitor using a nearly identical ride-sharing platform. The Commission's general counsel acknowledged an investigation into the service known as UberX, but, the

Commission has not issued a cease and desist nor sought any court's injunctive relief authority as against UberX. If in fact Lyft is unsafe or risky, why then has the Commission not sought this injunctive relief as against a similarly situated and allegedly risky competitor? If the alleged harm is indeed worthy of a TRO or injunctive relief, why then hasn't the Commission sought to curb all such service? The answer is that there is no harm (and the Commission has no jurisdiction over UberX activities, just as it has no jurisdiction over Lyft activities).

Ridesharing has existed on a large scale for many decades, from casual carpools and bulletin boards to Craigslist postings, with no regulation, and few if any institutional safety mechanisms. Lyft does not foster a new and dangerous activity, but rather, creates innovative and effective safety measures to enhance public safety well beyond existing systems.

Moreover, Lyft provides a number of benefits to the community. As detailed in the affidavit of Jim Black, at ¶ 7, those benefits include: reduction in individual car ownership and the use of single-occupancy vehicles; reduction of urban congestion, drunk driving, greenhouse gas emissions, and other problems associated with single-occupant driving; enabling more affordable transportation,<sup>4</sup> which, in turn facilitates local economic activity and job growth; providing transportation options that take advantage of existing resources and reduce the need for additional infrastructure and right-of-way; providing a scalable transportation solution for emergency preparedness; creating greater independence and mobility and encouraging the development of local-grown social networks; and strengthening the social fabric. *See, Id.*

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<sup>4</sup> *See* Letter from FTC to Chicago Alderman Brendan Reilly (Apr. 15, 2014), *available at* [http://www.ftc.gov/system/files/documents/advocacy\\_documents/ftc-staff-comment-honorable-brendan-reilly-concerning-chicago-proposed-ordinance-o2014-1367/140421chicagoridesharing.pdf](http://www.ftc.gov/system/files/documents/advocacy_documents/ftc-staff-comment-honorable-brendan-reilly-concerning-chicago-proposed-ordinance-o2014-1367/140421chicagoridesharing.pdf) ("Software applications that facilitate using personal automobiles to provide transportation services to the public may provide consumers with expanded transportation options, at potentially lower prices, thereby better satisfying consumer demand, and potentially increasing competition and promoting a more economically efficient use of personal vehicles."). A copy of the Letter from FTC is attached hereto as Exhibit D.

While Lyft does not necessarily take the position that it should not be subject to any regulation, the Commission cannot justify its overreaching based on an allegation that Lyft poses some sort of immediate risk if it is permitted to continue operating. The Legislature is free to take action with respect to entities such as Lyft. But the Commission currently lacks jurisdiction over Lyft, and cannot exceed that jurisdiction simply because the Legislature has not yet acted.

#### **V. LYFT IS WILLING TO ENTER INTO AN OPERATING AGREEMENT**

Finally, Lyft notes its efforts to reach an agreement with the Commission. Lyft rightfully opposes the Commission's effort to label it a taxi service, and to subject it to statutes and regulations applicable to taxi services. But that opposition is not intended to suggest that Lyft cannot or will not work collaboratively with the Commission to protect the public interest. In fact, Lyft has attempted to reach a temporary operating agreement with the Commission, allowing Lyft to operate with some Commission oversight until regulations tailored to the public interest and consistent with Lyft's operations are established. Lyft offered the same in:

- correspondence dated May 20, 2014 from Annabel Chang to Commission General Counsel Michael Smith;
- the correspondence covering its Application for Temporary Authority (which was summarily rejected after Commissioner Lyons suggested the same be filed at the earliest possible moment); and
- various e-mails exchanged between the undersigned and Commission counsel Richard Blumenfeld.

The Commission has, however, unreasonably refused to negotiate, insisting instead on applying the MCA to conduct falling outside its scope and jurisdiction.

## VI. ANSWER TO COMMISSION'S FINDINGS AND CONCLUSION

In accordance with the Show Cause and Cease and Desist Order, Lyft answers each of the allegations of the Order as follows:

1. Lyft denies that it has been operating a transportation service of persons for hire by motor vehicle in intrastate commerce without operating authority. As discussed above, Lyft is not a motor carrier subject to the Commission's jurisdiction under the MCA. Lyft further denies that a fine should be assessed, and for the reasons detailed herein, is demonstrating cause why a fine should not be assessed.
2. Lyft lacks sufficient knowledge to confirm that Mr. Jimenez conducted an investigation, and therefore denies the allegations of paragraph 2 of the Order.
3. Lyft denies, for the reasons discussed above, that it is a motor carrier within the meaning of the MCA.
4. Lyft acknowledges Staff's allegations, but denies that it has violated the Motor Carrier Act, NMSA 1978, §§ 65-2A-1 *et seq.*, or the Commission's Motor Transportation Rules 18.3.1 – 18.3.15 NMAC. Lyft affirmatively states that it is not subject to the MCA, and therefore, cannot be found to have violated the Act.
5. Lyft acknowledges the allegations of Staff and Mr. Jimenez, but lacks sufficient information to admit or deny the allegations concerning Mr. Jimenez's purported experience. Lyft therefore denies paragraph 5. Lyft has determined, however, that Mr. Jimenez did not receive a free promotional ride because he may have previously used Lyft's services outside of New Mexico, and was therefore treated as an existing customer. However, given that Lyft was operating within a promotional period in New Mexico at the time of Mr. Jimenez's ride, Mr. Jimenez was refunded his donation. Lyft

- affirmatively states that it has a drug and alcohol policy applicable to drivers who offer rides through Lyft's mobile-phone application, and in fact, has a policy entirely prohibiting drivers from using drugs or alcohol while offering rides. *See Black Affidavit.*
6. In response to paragraph 6, Lyft again observes that it is not subject to regulation under the MCA. In any event, NMSA 1978 § 65-2A-32(A) speaks for itself.
  7. Lyft denies that it should be assessed a penalty under NMSA 1978 § 65-2A-32(B), and again observes that it is not subject to regulation under the MCA.
  8. Because Lyft is not subject to the provisions of MCA, it cannot be found to have violated any of the MCA's provisions or related regulations. Nor could the Commission have probable cause to find any such violation. As detailed above, Lyft is not a transportation service or a taxi service. Furthermore, while Lyft is not subject to the provisions of the MCA or its implementing regulations, Lyft denies the suggestion that it has not addressed safety or financial responsibility, and affirmatively states that it has policies in place concerning safety and financial responsibility. *See Black Affidavit.*
  9. Lyft denies that a cease and desist order is appropriate under §65-2A-32(A), and affirmatively states that the order exceeds the scope of the Commission's jurisdiction. Moreover, the Commission's issuance of a cease and desist order prior to a hearing, and without permitting Lyft to respond, violates due process.
  10. In response to paragraph 10, Lyft denies that it should be assessed a penalty, and again notes that it is not subject to the MCA.
  11. Lyft denies that the Commission has jurisdiction and further denies that the Commission had a basis for issuing its Show Cause Order. Article XI § 2 does not convey jurisdiction. The Commission's jurisdiction must instead be statutorily conferred. *See El*

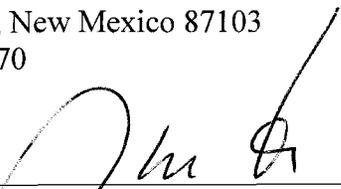
*Paso Elec. Co. v. N.M. Pub. Reg. Comm'n*, 2010-NMSC-048, ¶ 6, 246 P.3d 443 (“The Commission, though a constitutionally created body, *N.M. Const. art. XI, § 1*, may exercise only its statutorily authorized jurisdiction.”). The Public Regulation Commission Act similarly conveys no jurisdiction, but rather, enumerates certain powers the Commission may exercise in furtherance of jurisdiction separately conveyed by statute. *See* NMSA 1978 § 8-8-4. But the Commission lacks any statutory basis for exercising jurisdiction given that, as discussed above, it lacks jurisdiction to regulate Lyft under the MCA.

## VII. CONCLUSION

For the foregoing reasons, the Commission should immediately stop its efforts to apply the MCA to Lyft, and should vacate its Show Cause and Cease and Desist Order.

Respectfully submitted,

STELZNER, WINTER, WARBURTON,  
FLORES, SANCHEZ & DAWES, P.A.  
Attorneys for Lyft, Inc.  
Post Office Box 528  
Albuquerque, New Mexico 87103  
(505) 938-7770

By: 

NANN M. WINTER  
JAIME L. DAWES

-AND-

Kristin Sverchek, General Counsel  
Lyft, Inc.  
Email: [kristin@lyft.com](mailto:kristin@lyft.com)

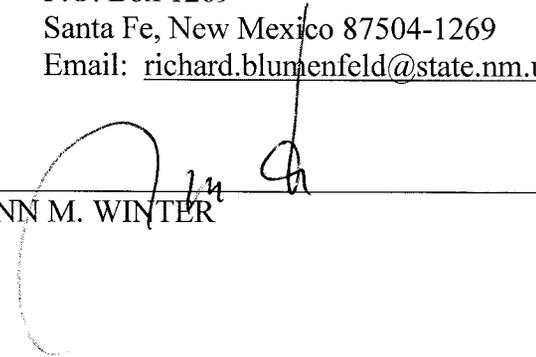
Annabel R. Chang, Public Policy Manager  
Lyft, Inc.  
Email: [achang@lyft.com](mailto:achang@lyft.com)

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I caused a true and correct copy of the foregoing Lyft, Inc.'s Answer to Order to Show Cause and Cease and Desist to be mailed and emailed on June 2, 2014 to the following:

Avelino A. Gutierrez  
Staff Counsel/Legal Division  
New Mexico Public Regulation Commission  
P.O. Box 1269  
Santa Fe, New Mexico 87504-1269  
Email: [avelino.gutierrez@state.nm.us](mailto:avelino.gutierrez@state.nm.us)

Richard Blumenfeld  
New Mexico Public Regulation Commission  
P.O. Box 1269  
Santa Fe, New Mexico 87504-1269  
Email: [richard.blumenfeld@state.nm.us](mailto:richard.blumenfeld@state.nm.us)

  
\_\_\_\_\_  
NANN M. WINTER

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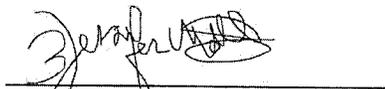
**STATEMENT OF SUPPORT**

I, Jennifer Walters, of Albuquerque, New Mexico, under oath state that the following information is within my personal knowledge and belief:

1. I am over the age of eighteen years old.
2. I am a user of the ride-sharing digital application created by Lyft, Inc.
3. I have first-hand experience of the transportation sharing benefits the Lyft application provides to the Albuquerque, New Mexico community.
4. I have used the Lyft digital application for routine trips for evening outings, shopping and meeting up with friends.
5. The Lyft digital application has provided my friends and me with a safe, timely, reliable, affordable and personable way to contact alternative transportation in Albuquerque.
6. The Lyft digital application does not require me to carry cash and in comparison to other transportation services, the Lyft alternative was much cleaner.
7. The Lyft application connected me to professional, kind, respectable citizens. And, I appreciate Lyft's strong public safety requirements and the user rating system.
8. Without the Lyft digital application, my transportation options in Albuquerque, New Mexico would be extremely limited.
9. In fact, without the Lyft application, my shopping, work and entertainment options are much more limited.
10. The Lyft application actually incentivizes me to socialize, shop, visit theaters, casinos, dine out and otherwise connect with my friends who don't live near me or participate in activities that are too far away for me to drive comfortably.
11. It would be more difficult to live, work and recreate in Albuquerque, New Mexico without the Lyft application.

Jennifer Walters

**PRINT NAME**



**SIGNATURE**

5/30/2014

**DATE**

**STATEMENT OF SUPPORT**

I, David Kowalski, of Albuquerque, New Mexico, under oath state that the following information is within my personal knowledge and belief:

1. I am over the age of eighteen years old.
2. I am a user of the ride-sharing digital application created by Lyft, Inc.
3. I have first-hand experience of the transportation sharing benefits the Lyft application provides to the Albuquerque, New Mexico community.
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David Kowalski  
**PRINT NAME**

  
**SIGNATURE**

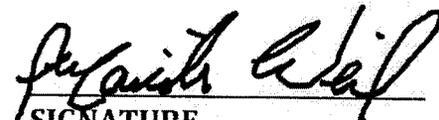
5/30/14  
**DATE**

STATEMENT OF SUPPORT

I, Marita Weil, of Albuquerque, New Mexico, under oath state that the following information is within my personal knowledge and belief:

1. I am over the age of eighteen years old.
2. I am a user of the ride-sharing digital application created by Lyft, Inc.
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11. It would be more difficult to live, work and recreate in Albuquerque, New Mexico without the Lyft application.

Marita Weil  
PRINT NAME

  
SIGNATURE

5/30/14  
DATE

**STATEMENT OF SUPPORT**

I, Kate Keaty, of Albuquerque, New Mexico, under oath state that the following information is within my personal knowledge and belief:

1. I am over the age of eighteen years old.
2. I am a user of the ride-sharing digital application created by Lyft, Inc.
3. I have first-hand experience of the transportation sharing benefits the Lyft application provides to the Albuquerque, New Mexico community.
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11. It would be more difficult to live, work and recreate in Albuquerque, New Mexico without the Lyft application.

Kate Keaty  
PRINT NAME

Kate Keaty  
SIGNATURE

5/29/14  
DATE

**STATEMENT OF SUPPORT**

I, Amanda Velez Mari, of Albuquerque, New Mexico, under oath state that the following information is within my personal knowledge and belief:

1. I am over the age of eighteen years old.
2. I am a user of the ride-sharing digital application created by Lyft, Inc.
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11. It would be more difficult to live, work and recreate in Albuquerque, New Mexico without the Lyft application.

Amanda Velez Mari  
PRINT NAME

  
SIGNATURE

May 28, 2014  
DATE

**STATEMENT OF SUPPORT**

I, MICHAEL VALDIVIA, of Albuquerque, New Mexico, under oath state that the following information is within my personal knowledge and belief:

1. I am over the age of eighteen years old.
2. I am a user of the ride-sharing digital application created by Lyft, Inc.
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11. It would be more difficult to live, work and recreate in Albuquerque, New Mexico without the Lyft application.

MICHAEL J. VALDIVIA  
PRINT NAME

  
SIGNATURE

5-30-14  
DATE

STATEMENT OF SUPPORT

I, Kevin Morrow, of Albuquerque, New Mexico, under oath state that the following information is within my personal knowledge and belief:

1. I am over the age of eighteen years old.
2. I am a user of the ride-sharing digital application created by Lyft, Inc.
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11. It would be more difficult to live, work and recreate in Albuquerque, New Mexico without the Lyft application.

Kevin Morrow  
PRINT NAME

  
SIGNATURE

5/30/11  
DATE

**STATEMENT OF SUPPORT**

I, John Williamson, of Albuquerque, New Mexico, under oath state that the following information is within my personal knowledge and belief:

1. I am over the age of eighteen years old.
2. I am a user of the ride-sharing digital application created by Lyft, Inc.
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11. It would be more difficult to live, work and recreate in Albuquerque, New Mexico without the Lyft application.

John Williamson

**PRINT NAME**



**SIGNATURE**

D:\cww\John Williamson, o=Array  
Technologies, Inc. ou=Engineering,  
email=jwilliamson@arraytechinc.com,  
c=US  
Date: 2014.05.29 16:29:31 -0600

5/29/14

**DATE**

**STATEMENT OF SUPPORT**

I, Brady Key, of Albuquerque, New Mexico, under oath state that the following information is within my personal knowledge and belief:

1. I am over the age of eighteen years old.
2. I am a user of the ride-sharing digital application created by Lyft, Inc.
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11. It would be more difficult to live, work and recreate in Albuquerque, New Mexico without the Lyft application.

Brady Key  
PRINT NAME

Brady Key  
SIGNATURE

5/30/14  
DATE

**STATEMENT OF SUPPORT**

I, Travis Kellerman, of Albuquerque, New Mexico, under oath state that the following information is within my personal knowledge and belief:

1. I am over the age of eighteen years old.
2. I am a user of the ride-sharing digital application created by Lyft, Inc.
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11. It would be more difficult to live, work and recreate in Albuquerque, New Mexico without the Lyft application.

Travis Kellerman  
**PRINT NAME**

  
**SIGNATURE**

5/29/2014  
**DATE**

STATEMENT OF SUPPORT

I, Amanda Gonzales of Albuquerque, New Mexico, under oath state that the following information is within my personal knowledge and belief:

1. I am over the age of eighteen years old.
2. I am a user of the ride-sharing digital application created by Lyft, Inc.
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11. It would be more difficult to live, work and recreate in Albuquerque, New Mexico without the Lyft application.

Amanda Gonzales  
PRINT NAME

Amanda Gonzales  
SIGNATURE

5/29/14  
DATE

**STATEMENT OF SUPPORT**

I, Miguel S. Jaramillo, of Albuquerque, New Mexico, under oath state that the following information is within my personal knowledge and belief:

1. I am over the age of eighteen years old.
2. I am a user of the ride-sharing digital application created by Lyft, Inc.
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11. It would be more difficult to live, work and recreate in Albuquerque, New Mexico without the Lyft application.

Miguel S. Jaramillo

**PRINT NAME**



**SIGNATURE**

30 May 2014

**DATE**

## STATEMENT OF SUPPORT

I, Jenna Bludworth, of Albuquerque, New Mexico, under oath state that the following information is within my personal knowledge and belief:

1. I am over the age of eighteen years old.
2. I am a user of the ride-sharing digital application created by Lyft, Inc.
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11. It would be more difficult to live, work and recreate in Albuquerque, New Mexico without the Lyft application.

Jenna Bludworth  
PRINT NAME

Jenna Bludworth  
SIGNATURE

5-29-2014  
DATE

**STATEMENT OF SUPPORT**

I, Autrey Mersness, of Albuquerque, New Mexico, under oath state that the following information is within my personal knowledge and belief:

1. I am over the age of eighteen years old.
2. I am a user of the ride-sharing digital application created by Lyft, Inc.
3. I have first-hand experience of the transportation sharing benefits the Lyft application provides to the Albuquerque, New Mexico community.
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5. The Lyft digital application has provided my friends and me with a safe, timely, reliable, affordable and personable way to contact alternative transportation in Albuquerque.
6. The Lyft digital application does not require me to carry cash and in comparison to other transportation services, the Lyft alternative was much cleaner.
7. The Lyft application connected me to professional, kind, respectable citizens. And, I appreciate Lyft's strong public safety requirements and the user rating system.
8. Without the Lyft digital application, my transportation options in Albuquerque, New Mexico would be extremely limited.
9. In fact, without the Lyft application, my shopping, work and entertainment options are much more limited.
10. The Lyft application actually incentivizes me to socialize, shop, visit theaters, casinos, dine out and otherwise connect with my friends who don't live near me or participate in activities that are too far away for me to drive comfortably.
11. It would be more difficult to live, work and recreate in Albuquerque, New Mexico without the Lyft application.

Autrey Mersness  
**PRINT NAME**

Autrey Mersness  
**SIGNATURE**

5/29/18  
**DATE**

**STATEMENT OF SUPPORT**

I, Laura Carmichael, of Albuquerque, New Mexico, under oath state that the following information is within my personal knowledge and belief:

1. I am over the age of eighteen years old.
2. I am a user of the ride-sharing digital application created by Lyft, Inc.
3. I have first-hand experience of the transportation sharing benefits the Lyft application provides to the Albuquerque, New Mexico community.
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11. It would be more difficult to live, work and recreate in Albuquerque, New Mexico without the Lyft application.

Laura Carmichael  
PRINT NAME

Laura Carmichael  
SIGNATURE

May 29, 2014  
DATE

STATEMENT OF SUPPORT

ALFRED GARCIA of Albuquerque, New Mexico, under oath states that the following information is within my personal knowledge and belief:

1. I am over the age of eighteen years old.
2. I am a user of the ride-sharing digital application created by Lyft, Inc.
3. I have first-hand experience of the transportation sharing benefits the Lyft application provides to the Albuquerque, New Mexico community.
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11. It would be more difficult to live, work and recreate in Albuquerque, New Mexico without the Lyft application.

ALFRED GARCIA  
PRINT NAME

Alfred Garcia  
SIGNATURE

5/29/2014  
DATE

**STATEMENT OF SUPPORT**

I, \_\_\_\_\_, of Albuquerque, New Mexico, under oath state that the following information is within my personal knowledge and belief:

1. I am over the age of eighteen years old.
2. I am a user of the ride-sharing digital application created by Lyft, Inc.
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11. It would be more difficult to live, work and recreate in Albuquerque, New Mexico without the Lyft application.

Nathan Havelk  
PRINT NAME

Nathan Havelk  
SIGNATURE

5/29/14  
DATE

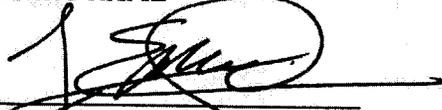
**STATEMENT OF SUPPORT**

I, Javier Manriquez, of Albuquerque, New Mexico, under oath state that the following information is within my personal knowledge and belief:

1. I am over the age of eighteen years old.
2. I am a user of the ride-sharing digital application created by Lyft, Inc.
3. I have first-hand experience of the transportation sharing benefits the Lyft application provides to the Albuquerque, New Mexico community.
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11. It would be more difficult to live, work and recreate in Albuquerque, New Mexico without the Lyft application.

Javier Manriquez

PRINT NAME



SIGNATURE

05/29/2014

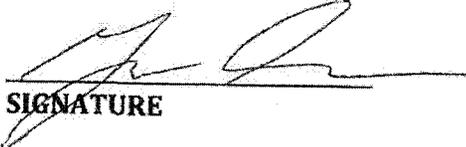
DATE

**STATEMENT OF SUPPORT**

I, GARY ANDERSON of Albuquerque, New Mexico, under oath state that the following information is within my personal knowledge and belief:

1. I am over the age of eighteen years old.
2. I am a user of the ride-sharing digital application created by Lyft, Inc.
3. I have first-hand experience of the transportation sharing benefits the Lyft application provides to the Albuquerque, New Mexico community.
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11. It would be more difficult to live, work and recreate in Albuquerque, New Mexico without the Lyft application.

GARY ANDERSON  
PRINT NAME

  
SIGNATURE

5-29-2014  
DATE

**STATEMENT OF SUPPORT**

I, Carlos Romero, of Albuquerque, New Mexico, under oath state that the following information is within my personal knowledge and belief:

1. I am over the age of eighteen years old.
2. I am a user of the ride-sharing digital application created by Lyft, Inc.
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11. It would be more difficult to live, work and recreate in Albuquerque, New Mexico without the Lyft application.

Carlos Romero  
PRINT NAME

[Signature]  
SIGNATURE

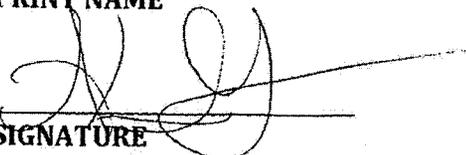
MAY 29 2014  
DATE

**STATEMENT OF SUPPORT**

I, Maria Gunn, of Albuquerque, New Mexico, under oath state that the following information is within my personal knowledge and belief:

1. I am over the age of eighteen years old.
2. I am a user of the ride-sharing digital application created by Lyft, Inc.
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11. It would be more difficult to live, work and recreate in Albuquerque, New Mexico without the Lyft application.

Maria Gunn  
PRINT NAME

  
SIGNATURE

5/29/14  
DATE

STATEMENT OF SUPPORT

I, Deborah Kuidis, of Albuquerque, New Mexico, under oath state that the following information is within my personal knowledge and belief:

1. I am over the age of eighteen years old.
2. I am a user of the ride-sharing digital application created by Lyft, Inc.
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11. It would be more difficult to live, work and recreate in Albuquerque, New Mexico without the Lyft application.

Deborah Kuidis  
PRINT NAME

Deborah Kuidis  
SIGNATURE

5/29/14  
DATE

STATEMENT OF SUPPORT

I, Susie Gilkey, of Albuquerque, New Mexico, under oath state that the following information is within my personal knowledge and belief:

1. I am over the age of eighteen years old.
2. I am a user of the ride-sharing digital application created by Lyft, Inc.
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11. It would be more difficult to live, work and recreate in Albuquerque, New Mexico without the Lyft application.

Susie Gilkey  
PRINT NAME

Susie Gilkey  
SIGNATURE

5/29/14  
DATE

**STATEMENT OF SUPPORT**

I, KARREN Carmichael of Albuquerque, New Mexico, under oath state that the following information is within my personal knowledge and belief:

1. I am over the age of eighteen years old.
2. I am a user of the ride-sharing digital application created by Lyft, Inc.
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11. It would be more difficult to live, work and recreate in Albuquerque, New Mexico without the Lyft application.

KARREN Carmichael  
PRINT NAME

  
SIGNATURE

29 MAY 2014  
DATE

**STATEMENT OF SUPPORT**

I, Chris DiAndreth, of Albuquerque, New Mexico, under oath state that the following information is within my personal knowledge and belief:

1. I am over the age of eighteen years old.
2. I am a user of the ride-sharing digital application created by Lyft, Inc.
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11. It would be more difficult to live, work and recreate in Albuquerque, New Mexico without the Lyft application.

Christopher DiAndreth  
**PRINT NAME**

  
**SIGNATURE**

5/29/2014  
**DATE**

**STATEMENT OF SUPPORT**

I, Andre Jackson, of Albuquerque, New Mexico, under oath state that the following information is within my personal knowledge and belief:

1. I am over the age of eighteen years old.
2. I am a user of the ride-sharing digital application created by Lyft, Inc.
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11. It would be more difficult to live, work and recreate in Albuquerque, New Mexico without the Lyft application.

Andre Jackson  
**PRINT NAME**

  
**SIGNATURE**

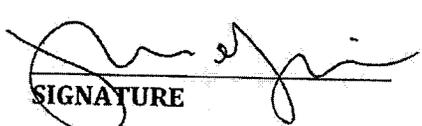
5/29/2014  
**DATE**

### STATEMENT OF SUPPORT

I, Jonathan Garcia, of Albuquerque, New Mexico, under oath state that the following information is within my personal knowledge and belief:

1. I am over the age of eighteen years old.
2. I am a user of the ride-sharing digital application created by Lyft, Inc.
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11. It would be more difficult to live, work and recreate in Albuquerque, New Mexico without the Lyft application.

Jonathan Garcia  
PRINT NAME

  
SIGNATURE

05/29/2014  
DATE

**STATEMENT OF SUPPORT**

I, Cody Fragua, of Albuquerque, New Mexico, under oath state that the following information is within my personal knowledge and belief:

1. I am over the age of eighteen years old.
2. I am a user of the ride-sharing digital application created by Lyft, Inc.
3. I have first-hand experience of the transportation sharing benefits the Lyft application provides to the Albuquerque, New Mexico community.
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11. It would be more difficult to live, work and recreate in Albuquerque, New Mexico without the Lyft application.

Cody Fragua  
PRINT NAME

[Signature]  
SIGNATURE

5/30/14  
DATE

## STATEMENT OF SUPPORT

I, Alexander Barnes, of Albuquerque, New Mexico, under oath state that the following information is within my personal knowledge and belief:

1. I am over the age of eighteen years old.
2. I am a user of the ride-sharing digital application created by Lyft, Inc.
3. I have first-hand experience of the transportation sharing benefits the Lyft application provides to the Albuquerque, New Mexico community.
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11. It would be more difficult to live, work and recreate in Albuquerque, New Mexico without the Lyft application.

Alex Barnes  
PRINT NAME

  
SIGNATURE

5/29/14  
DATE



- g. Strengthening the social fabric; and
  - h. Providing a last-mile option for public transportation users.
8. To use the Lyft service, potential riders must have a credit card on file and use a GPS-enabled smart phone.
  9. Decisions to accept or reject a ride through the Lyft application are at the discretion of drivers and riders. Thus, Lyft does not and is not offering or providing transportation.
  10. At the end of the ride, drivers and riders rate each other through the mobile application, and any driver or rider whose ratings fall below a certain threshold is removed from the community of available rides.
  11. Once they have completed a ride, riders are presented with a suggested donation amount. Riders are free to donate the suggested amount, a greater amount, a lesser amount or nothing. As such, it is the rider's sole responsibility to decide whether and how much to contribute to any driver.
  12. Lyft observes strict requirements for disclosure and conduct designed to protect drivers and riders.
  13. Every driver who applies to become a part of the Lyft community is screened for criminal offenses and driving incidents. Lyft requires each driver applicant, based on his or her social security number, to undergo a national and county level criminal background check that includes the national sex offender database.
  14. Lyft also obtains a driving record check based on a driver's license number. After a DMV record check, Lyft will bar any potential driver who has more than two moving violations in the past three years, any single, major violation in the past three years, or any alcohol or drug-related violation in the past seven years.
  15. Lyft requires that all cars be model year 2000 or newer and each must pass Lyft's 19-point vehicle safety inspection before a driver can use the Lyft application.
  16. Drivers using Lyft must be 21 years of age or older and be a licensed driver for one or more years.
  17. Lyft has a zero-tolerance drug and alcohol policy for community drivers. Riders can easily report any suspicions of drug or alcohol use by contacting [support@lyft.com](mailto:support@lyft.com) or by calling (855) 865-9553.
  18. In addition to requiring each driver to maintain personal auto insurance in the amount of at least the statutory minimum, Lyft has an additional \$1 million per occurrence excess liability and uninsured/underinsured motorist policy to cover its users.
  19. Lyft does not charge a fare for use of any vehicle transporting passengers in New Mexico. Lyft does not employ a "drop-flag fee, cumulative mileage and cumulative wait time through a taxicab meter used to cumulate and display the fare" to a passenger.

20. Lyft does not “deploy vehicles”, does not “centrally dispatch”, and does not claim to have a “full-service territory.”
21. Lyft does not “pick up on-demand passengers through flagging or at a taxicab stand or queue” and does not “deploy vehicles” to destination places outside of its “certificated territories” on the basis of a “set fare.”
22. Lyft does not transport groups of persons for a fixed charge under an itinerary specified in advance.
23. Lyft is willing to discuss, present, or negotiate an interim operating arrangement or agreement with the applicable regulatory body pending the adoption of rules or laws that recognize the unique nature of Lyft’s services.

Further Affiant sayeth naught.



Jim Black

A handwritten signature in black ink, appearing to read "Jim Black", written over a horizontal line.

SUBSCRIBED AND SWORN to me this 28<sup>th</sup> day of May, 2014.

*Carol A. Stewart*  
Notary Public

My Commission Expires: \_\_\_\_\_  
CAROL A. STEWART  
NOTARY PUBLIC, STATE OF OHIO  
MY COMMISSION EXPIRES 06/28/2014

[\(/\)](#)[HOW IT WORKS \(/HOW\)](#)    [SAFETY \(/SAFETY\)](#)    [DRIVE \(/DRIVERS\)](#)

## **LYFT TERMS OF SERVICE**

**MAY 22, 2014**[STORIES \(/STORIES\)](#)    [DOWNLOAD \(\)](#)

THIS FOLLOWING USER AGREEMENT DESCRIBES THE TERMS AND CONDITIONS ON WHICH LYFT, INC. OFFERS YOU ACCESS TO THE LYFT PLATFORM.

Welcome to the user agreement (the “Agreement” or “User Agreement” or “Terms of Service”) for Lyft (the “Lyft Platform”), an application owned and operated by Lyft Inc., a Delaware corporation, whose principal office is located at 548 Market St #68514, San Francisco, CA 94104. This Agreement is a legally binding agreement made between you (“You,” “Your,” or “Yourself”) and Lyft, Inc. (“Lyft,” “We,” “Us” or “Our”).

Lyft is willing to license, not sell, the Lyft Platform to You only upon the condition that You accept all the terms contained in this Agreement. By signing up with or by using the Lyft Platform, You indicate that You understand this Agreement and accept all of its terms. If You do not accept all the terms of this Agreement, then Lyft is unwilling to license the Lyft Platform to You.

This paragraph applies to any version of the Lyft Platform that you acquire from the Apple App Store. This Agreement is entered into between You and Lyft. Apple, Inc. (“Apple”) is not a party to this Agreement and shall have no obligations with respect to the Lyft Platform. Lyft, not Apple, is solely responsible for the Lyft Platform and the content thereof as set forth hereunder. However, Apple and Apple’s subsidiaries are third party beneficiaries of this Agreement. Upon Your acceptance of this Agreement, Apple shall have the right (and will be deemed to have accepted the right) to enforce this Agreement against You as a third party beneficiary thereof. This Agreement incorporates by reference the



Licensed Application End User License Agreement published by Apple (<http://www.apple.com/legal/itunes/appstore/dev/stdeula/>), for purposes of which, You are “the end-user.” In the event of a conflict in the terms of the Licensed Application End User License Agreement and this Agreement, the terms of this Agreement shall control.

The Lyft Platform provides a means to enable persons who seek transportation to certain destinations (“Riders”) to be matched with persons driving to or through those destinations (“Drivers”). For purposes of this Agreement these services shall collectively be defined as the “Services”. This Agreement describes the terms and conditions that will govern Your use of and participation in the Lyft Platform.

Please read this Agreement carefully before using the Services. You must read, agree with and accept all of the terms and conditions contained in this Agreement, which includes those terms and conditions expressly set out below and those incorporated by reference, before You use any of the Services. By using any of the Services, You become a Participant in Lyft and a User of Services available on the Lyft Platform (“Participant” or “User”) and You agree to be bound by the terms and conditions of this Agreement with respect to such Services.

IF YOU DO NOT AGREE TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT, PLEASE DO NOT USE OR ACCESS LYFT OR REGISTER FOR THE SERVICES PROVIDED ON LYFT. We may amend this Agreement at any time by posting the amended terms on the Lyft Platform. If We post amended terms on the Lyft Platform, You may not use the Services without accepting them. Except as stated below, all amended terms shall automatically be effective after they are posted on the Lyft Platform. This Agreement may not be otherwise amended except in writing signed by You and Lyft.

LYFT DOES NOT PROVIDE TRANSPORTATION SERVICES, AND LYFT IS NOT A TRANSPORTATION CARRIER. IT IS UP TO THE DRIVER OR VEHICLE OPERATOR TO DECIDE WHETHER OR NOT TO OFFER A RIDE TO A RIDER CONTACTED THROUGH THE LYFT PLATFORM, AND IT IS UP THE RIDER TO DECIDE WHETHER OR NOT TO ACCEPT A RIDE FROM ANY DRIVER CONTACTED THROUGH THE LYFT PLATFORM. ANY DECISION BY A USER TO OFFER OR ACCEPT TRANSPORTATION ONCE SUCH USER IS MATCHED THROUGH THE

LYFT PLATFORM IS A DECISION MADE IN SUCH USER'S SOLE DISCRETION. LYFT OFFERS INFORMATION AND A METHOD TO CONNECT DRIVERS AND RIDERS WITH EACH OTHER, BUT DOES NOT AND DOES NOT INTEND TO PROVIDE TRANSPORTATION SERVICES OR ACT IN ANY MANNER AS A TRANSPORTATION CARRIER, AND HAS NO RESPONSIBILITY OR LIABILITY FOR ANY TRANSPORTATION SERVICES VOLUNTARILY PROVIDED TO ANY RIDER BY ANY DRIVER USING THE LYFT PLATFORM.

## **PAYMENTS**

- **Donations** (applicable to all users outside California). As a Rider outside California, You may elect to make a voluntary donation ("Donation") for the ride a Driver has provided to You. The decision whether to make a Donation and the amount of the Donation is at Your sole discretion, and the Driver will not receive any compensation or consideration for providing You a ride other than the amount (if any) of this voluntary Donation. As a Driver, You may receive from a Rider a Donation for the ride You have provided. Each Driver acknowledges that the decision to provide such Donation and the amount of the Donation is at the Rider's sole discretion, and that the Driver will not request from Rider or receive any compensation or consideration for providing a ride to the Rider other than the amount (if any) of the Donation. A Donation may be any amount from \$0 up, as specified by Rider. If, within twenty-four (24) hours after a completion of a ride, a Rider does not identify a specific Donation amount for such ride, or decline to donate by specifying \$0 as the Donation amount, Lyft will assume that the Rider selects the suggested Donation amount for the ride and the Rider's credit card will automatically be charged that amount. **IT IS THE RIDER'S SOLE RESPONSIBILITY, AND NOT THE RESPONSIBILITY OF LYFT, TO DECIDE WHETHER AND HOW MUCH TO DONATE TO THE DRIVER.**
- **Charges** (applicable to California users only). As a Rider in California, You agree that any mandatory amounts charged following a ride (a "Charge") are due immediately. Lyft reserves the right to determine pricing.
- **Administrative Fee.** Lyft receives an administrative fee of up to 20% (the "Administrative Fee") of each Charge (California only) Donation of more than \$0



UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

Office of Policy Planning  
Bureau of Competition  
Bureau of Economics

April 15, 2014

Mr. Brendan Reilly  
Alderman – 42<sup>nd</sup> Ward  
City Council  
City of Chicago  
City Hall – Room 200  
121 North LaSalle Street  
Chicago, IL 60602

Re: Proposed Ordinance O2014-1367

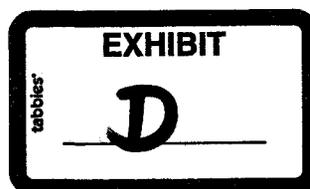
Dear Alderman Reilly:

The staffs of the Federal Trade Commission's Office of Policy Planning, Bureau of Competition, and Bureau of Economics<sup>1</sup> appreciate this opportunity to provide comments to you regarding proposed Ordinance O2014-1367 ("the ordinance"), in response to your request for an assessment of the ordinance's possible effects on competition.

Proposed Ordinance O2014-1367 would amend Title 9 of the Municipal Code of Chicago by adding a new Chapter 9-115 to establish a regulatory framework that would provide for the licensing and operation of transportation network providers ("TNPs"), particularly new software applications ("applications") that are used by consumers to arrange for passenger motor vehicle transportation services using personal vehicles. Staff appreciates that these updates to Title 9 appear designed to facilitate these new forms of competition that are likely to benefit consumers. We are concerned, however, that certain provisions of the ordinance may unnecessarily impede competition from these services, limiting the consumer benefits that such services might otherwise generate. These provisions are discussed in greater detail, below.

**I. Interest and Experience of the FTC**

The FTC is an independent federal agency that enforces laws prohibiting unfair methods of competition and unfair and deceptive acts or practices in or affecting commerce.<sup>2</sup> The Commission has wide-ranging responsibilities concerning nearly all segments of the economy. Pursuant to this responsibility, the Commission seeks to identify business practices and regulations that impede competition without offering



countervailing benefits to consumers, and advocates for policies that promote competition and consumer protection.<sup>3</sup>

Consumers benefit from market competition in a variety of ways. As the U.S. Supreme Court has recognized, the benefits of competition not only include lower prices, but go beyond as well: “The assumption that competition is the best method of allocating resources in a free market recognizes that all elements of a bargain—quality, service, safety, and durability—and not just the immediate cost, are favorably affected by the free opportunity to select among alternative offers.”<sup>4</sup> The competitive process also creates incentives for producers to be innovative and responsive to consumer preferences with respect to the design and characteristics of products and services, and the business models used to deliver them.

In carrying out its mission, the Commission has developed considerable expertise in analyzing passenger motor vehicle transportation services. FTC staff previously has submitted a number of advocacy filings related to taxicabs with various local and state authorities, including recent comments regarding the regulation of new applications for obtaining passenger vehicle transportation services in the District of Columbia, Anchorage, Alaska, and Colorado.<sup>5</sup> In addition, the FTC has brought antitrust enforcement actions against two cities relating to taxicab regulation,<sup>6</sup> and has issued two significant reports on taxi regulation.<sup>7</sup> The Commission is also knowledgeable in various aspects of competition and consumer protection that are relevant to new passenger motor vehicle transportation applications. For example, the Commission has developed considerable expertise relating to the emergence of new technologies and innovation as a form of competition.<sup>8</sup> Staff has recently updated guidance on how to make effective disclosures in the online context.<sup>9</sup> The Commission has also developed consumer protection expertise in data security, privacy, and identity theft issues that applications may raise.<sup>10</sup>

## **II. The Passenger Motor Vehicle Transportation Marketplace**

The marketplace for commercial passenger motor vehicle transportation services in the United States remained largely unchanged for decades until the arrival of the smartphone in 2007.<sup>11</sup> Historically, commercial services included: cruising taxis that respond to street hails, taxis that wait for riders at taxi stands, radio-dispatched taxis, prearranged limousine and sedan-type vehicle service, and jitney-type service. These services were regulated at the state and local level under a framework that also remained largely unchanged. Common regulatory features included: licensing requirements, formal classifications for various vehicle and service types; entry restrictions such as taxi medallion systems or requirements that new entrants demonstrate a need for service; fare regulation; prescribed methods of calculating fares and fare information; minimum fares and prearrangement requirements for limousines and sedans; safety and liability issues; and handicapped access, universal service, and non-discrimination requirements.

More recently, in response to the introduction of smartphones around 2007, both incumbent passenger motor vehicle transportation service providers and other

entrepreneurs have introduced software applications, sometimes also called digital dispatch services, which allow consumers to arrange and pay for passenger motor vehicle transportation services in a variety of ways.<sup>12</sup> These software applications may make use of technologies such as mobile smartphone applications, Internet web pages, email messages, and text messages.

These innovative software applications can spur competition by providing consumers with new ways to more easily locate, arrange, and pay for passenger motor vehicle transportation services, as compared to traditional methods such as street hails or prearrangement by telephone through traditional service dispatchers.<sup>13</sup> For example, some applications use the Global Positioning System (“GPS”) technology incorporated into smartphones to enable consumers to locate nearby vehicles and track their arrival on an electronic map, thus facilitating matching between customers and service.<sup>14</sup> Some applications also utilize the GPS and computing capabilities of smartphones to enable new methods of fare calculation based on one or more factors, such as distance, time, per trip fees, real-time demand conditions, additional services, or gratuities, which the application can then charge to a credit card on file with the application.<sup>15</sup> Such applications may also use third-party credit card processing and electronic receipts, in lieu of non-electronic payment methods and paper receipts.<sup>16</sup>

These technologies and new methods appear to be responsive to consumer demand, and also may promote a more efficient allocation of resources (e.g., vehicles and drivers) to consumers, help to meet unmet demand for passenger motor vehicle transportation services, and improve service in traditionally underserved areas.<sup>17</sup> They also may reduce consumers’ transaction costs in arranging and paying for such services. At the very least, these technologies and methods provide consumers new alternatives to street hailing or telephoning for service.<sup>18</sup>

In addition to applications that facilitate the arrangement of passenger motor vehicle transportation services using commercially licensed vehicles and drivers, another model has emerged that allows consumers to arrange, and in some instances pay for or otherwise provide money in connection with, transportation provided by drivers operating their own personal vehicles. This model is sometimes referred to as being an application-based variant of traditional “ridesharing” arrangements or as being a “peer-to-peer” (“P2P”) form of transportation.<sup>19</sup>

Software applications that facilitate using personal automobiles to provide transportation services to the public may provide consumers with expanded transportation options, at potentially lower prices, thereby better satisfying consumer demand, and potentially increasing competition and promoting a more economically efficient use of personal vehicles. Staff understands, however, that such applications may raise issues for policymakers not previously addressed in connection with applications that facilitate the use of commercial passenger motor vehicle transportation service. While these concerns may provide grounds for some regulations to protect consumers, as we discuss below, we encourage the City Council to carefully consider the potential competitive effects of such regulations as well as the justifications being urged to support them.

### **III. General Principles for Regulating Evolving Industries**

Transportation services facilitated by software applications and provided by individuals using their personal vehicles appear to be a new phenomenon that lies outside most existing regulatory schemes. The initial question for regulators, therefore, is whether there is a public policy justification for regulating them at all, either through entirely new regulatory mechanisms or expansion of current systems for regulating commercial passenger motor vehicle transportation services. Unregulated markets can be adept at accommodating new and innovative forms of competition, whereas traditional regulatory frameworks may lack the flexibility to do so precisely because they tend to mirror, and even entrench, the business models that have developed in the past.

Regulatory frameworks, when needed, should be flexible enough to allow new and innovative forms of competition. Unless regulation is necessary to achieve some legitimate public interest, markets should be left unfettered to permit competition to flourish. Consumers benefit from competition between traditional and new products and services, and from new business models and methods of delivering services. It is advisable, therefore, that laws and regulations be reviewed and revised periodically to facilitate and encourage the emergence of new forms of competition, sometimes through deregulation and other times through the development of new and adaptive regulations.

As with software applications that facilitate commercial passenger motor vehicle transportation services, any regulations directed at TNP services should focus primarily on ensuring the safety of customers and drivers, deterring deceptive practices relating to fares, safety and liability, and other terms of use, and addressing other consumer protection issues, especially data security and the prevention of identity theft. These might include provisions that relate to ensuring qualified drivers, safe and clean vehicles, sufficient liability insurance, transparency of fare information, and compliance with other applicable laws. Regulations should not in purpose or effect favor one group of competitors over another or impose unnecessary burdens on applications or drivers that impede their ability to compete without any justification that benefits the public interest.

Staff notes that the ordinance, in principle, provides a pathway to facilitate and promote transportation services using personal vehicles that consumers appear to be demanding and therefore will promote competition. We respectfully suggest, however, that the Chicago City Council carefully consider the potential direct and indirect impacts on competition of some of the proposed ordinance's provisions. Unwarranted restrictions on competition will undermine the potential benefits of the ordinance and should be avoided. Any restrictions on competition that are implemented should be no broader than necessary to address legitimate subjects of regulation, such as safety and consumer protection, and narrowly crafted to minimize any potential anticompetitive impact.

#### **IV. The Proposed Ordinance**

Proposed Ordinance O2014-1367 would amend Title 9 by adding a new Chapter 9-115 to establish a license for transportation network providers. Among other things, the ordinance would: require that TNPs meet certain qualifications and maintain certain insurance; set out certain standards for drivers, vehicles, and operation; establish certain pricing parameters and recordkeeping and reporting requirements; and limit transportation network service to prearranged service. It would also prohibit pick-ups and drop-offs in certain airport and convention center areas.

Staff appreciates that by providing for the legal recognition of new software applications to arrange and pay for passenger motor vehicle transportation services using personal vehicles, some of the proposed updates to Title 9 are likely to benefit consumers.<sup>20</sup> However, certain provisions, highlighted and analyzed below, may unnecessarily impede competition in these services without providing any apparent consumer protection benefits.<sup>21</sup>

##### **A. TNP License Fee**

Proposed Chapter 9-115-030 would require an annual fee for a non-transferable TNP license of \$25,000, plus \$25 for each affiliated driver. These fees would impose an additional cost not currently borne by the TNPs. Although the annual fee may not be substantial enough to inhibit or deter well-established and successful TNPs, it will still raise their costs of operation, and may prove to be a barrier to the entry or expansion of new TNPs. If TNPs, especially smaller start-up TNPs having relatively fewer affiliated drivers, such as a potential local area-only start-up, are forced to incur higher costs than other business models, such costs may put them at a competitive disadvantage. By contrast, an annual taxicab affiliation license fee is only \$500, plus \$15 for each affiliated licensee, and an annual taxicab two-way dispatch license fee is an additional \$500.<sup>22</sup> In either event, these costs may also be passed on to consumers. In addition, because the TNPs typically seek to operate in many jurisdictions—a characteristic that can make them attractive to some consumers—the fees could, if replicated elsewhere, collectively become a substantial barrier to entry and operation, even for more well-established and successful TNPs.

Staff, therefore, recommends that the Chicago City Council carefully consider the justification for and effect of these fees on TNPs and competition. If some fee is deemed necessary to cover the costs of administering a regulatory framework for TNPs or for some other public purpose, staff recommends that such fees should be no greater than necessary to cover such costs; staff recommends that any fees should be structured in a way that avoids unnecessarily inhibiting or deterring new entry or further expansion into the marketplace.

## **B. Pricing**

Variation in pricing models has been one of the most innovative and defining characteristics of software-based applications for arranging transportation services. Instead of leaving the method of calculating fees to the TNPs, however, proposed Chapter 9-115-170 would permit TNPs to calculate fees for transportation network services in only three ways: (1) distance travelled or time elapsed during service, (2) a flat prearranged fare, or (3) a suggested donation. This specification of fee structures seems overbroad and likely to restrict one of the most important competitive tools of the applications. It would also specifically prohibit fares using a combination of distance and time, which might potentially benefit consumers and competition. More broadly, it locks in specific fee structures, precluding future evolution of new or different methods of calculating value for services using personal vehicles.

In addition, proposed Chapter 9-115-170 does not expressly recognize or permit demand-based pricing. Demand pricing is a mechanism by which resources are allocated to their most highly valued consumer uses. Demand pricing directly responds to the level of consumer demand: when demand increases, prices increase and when demand falls, prices fall. It can be an efficient way to allocate resources (e.g., vehicles and drivers) to consumers, particularly during times of peak demand (e.g., during particular times of day, periods of traffic congestion, around the time of special events), because it provides incentives for increased supply to serve increased demand.<sup>23</sup> Demand pricing also may result in lower fares during off-peak times, which may potentially result in an overall increase in the quantity of service utilized by consumers. Demand based pricing, therefore, can be more responsive to consumer preferences than fixed pricing models.

Staff recommends that, absent some specific evidence that a particular pricing model will harm consumers, the ordinance should clearly allow for greater flexibility and experimentation in structuring fees in order to facilitate innovative forms of pricing that may benefit consumers.<sup>24</sup> To the extent that evidence of such harm is received, any restriction designed to address that harm should be narrowly crafted to minimize its anticompetitive impact.<sup>25</sup>

## **C. Insurance Requirements**

Proposed Chapter 9-115-080 would require each TNP to have commercial general liability insurance with coverage of at least \$1,000,000 per occurrence for bodily injury, personal injury, and property damage, and also commercial automobile liability insurance with a combined single limit for bodily injury and property damage of at least \$1,000,000 per occurrence. By contrast, current Chapter 9-112-330 only requires taxicab licensees to have public liability insurance with at least \$350,000 combined single limit coverage per occurrence. Current Chapter 9-114-170 requires that public passenger vehicles, other than taxicabs, have public liability insurance with combined single limit per occurrence coverage of at least \$100,000 for jitney car service vehicles with up to eight seats, and at least \$350,000 for other vehicles with up to ten seats.

Requiring TNPs to incur the likely higher costs associated with increased levels of insurance coverage may put them at a competitive disadvantage versus other business models.<sup>26</sup> This differential in the requirements for insurance coverage might be appropriate if there is evidence that TNP services involve a higher degree of risk for consumers. Absent such evidence, however, requiring TNPs to carry greater and likely more expensive levels of insurance coverage than other service providers will likely harm competition, increase costs for consumers, and provide no public benefit. If the risks associated with similar types of passenger motor vehicle service are comparable, then, from a competition perspective, insurance requirements should also be comparable across those types of service.

#### **D. Airport and Convention Center Pick-ups and Drop-offs**

Proposed Chapter 9-115-160(b) would prohibit transportation network drivers from picking up or dropping off a passenger at O'Hare International Airport, Midway International Airport, or McCormick Place convention center, areas where consumers may frequently demand service. Such a blanket prohibition eliminates even the possibility that TNP services can compete with other types of passenger transportation services at these locations. As with the ordinance's restrictions on pricing and insurance, absent some specific evidence that the presence of transportation network vehicles in proximity to these areas will harm consumers, this change should not be adopted. To the extent that there may be concerns about potential queue problems or congestion issues in certain areas, staff recommend considering a less restrictive means to deal with these problems.<sup>27</sup>

Staff is aware that issues have sometimes arisen regarding the regulation of commercial passenger motor vehicle transportation services at these kinds of locations, as in the case of first-in first-out taxicab queues at airport, rail station, or downtown taxicab stand areas.<sup>28</sup> But these problems alone do not appear to support the proposed restrictions. Generally, there are likely to be more passenger transportation vehicles in particular areas only if there is demand for such vehicles in those areas, especially if service has been specifically prearranged by consumers. Staff also notes that similar restrictions do not appear to be in place for other types of prearranged services (e.g., livery service). Also, passenger motor vehicle transportation services can potentially reduce traffic congestion because increased use of those services can mean reduced use of automobiles, especially in downtown and other densely populated areas. Consequently, absent evidence of queue problems or congestion issues unique to TNPs, unnecessarily restricting the ways that consumers can receive TNP services at these locations does not appear to be warranted.

#### **E. Records and Data Collection**

Proposed Chapter 9-115-180 would require TNPs to maintain operations records for at least three years and make them available to the city's commissioner of business affairs and consumer protection. It would also require them to provide certain customer, driver, and trip data, including real-time trip data (e.g., driver identity, GPS location data,

and whether the driver is engaged with a passenger), to the commissioner at such times and in a format and manner prescribed by regulation.

As a preliminary matter, the City Council might consider whether this information is needed and, if so, for what purposes. In particular, the City Council should consider if there is any justification for establishing different data collection requirements for TNPs and other types of passenger motor vehicle transportation services.<sup>29</sup> Data collection and reporting requirements can impose significant costs on TNPs and the commissioner should carefully evaluate the costs and benefits of specific requirements, as well as the availability of less burdensome means of serving any public purpose.

Staff recognizes that the city may want to collect and make available to consumers certain information relating to safety and availability of service. But staff cautions against otherwise publicly disclosing or sharing other operational information, such as real-time trip data, among competitors involved in facilitating or supplying passenger vehicle transportation services, including TNPs and drivers, and other types of vehicle operators and vehicle fleets or associations. If shared, this sort of data might compromise proprietary business strategies and facilitate tacit or explicit collusion among competing service providers. Such collusion would harm consumers through, for example, higher prices, decreased output, decreased quality, or reduced innovation.<sup>30</sup> Any such information, therefore, should be treated as confidential business information.

#### **F. TNP Business Relationships Related to Vehicles**

Proposed Chapter 9-115-090(a) would prohibit TNPs from owning transportation network vehicles, providing financing for the obtaining, leasing, or ownership of such vehicles, or having a beneficial interest in such vehicles. There does not appear to be any pro-competitive or pro-consumer rationale to support this sweeping prohibition. To the contrary, the logical and predictable consequence of it will be to constrain the development of TNP service to the detriment of competition and consumers.

Although staff is unaware of any TNPs that currently have these types of relationships relating to personal vehicles, it is conceivable that such business models might develop in the future (e.g., to facilitate the ability of drivers to get access to vehicles that can be used in passenger motor vehicle transportation service). Staff, therefore, strongly cautions against unnecessarily inhibiting new methods or models of doing business, such as those involving integration or other business relationships between TNPs, vehicles, and drivers.

#### **G. Vehicle Advertising**

Proposed 9-115-120 would prohibit transportation network vehicles from displaying commercial advertisements on either the exterior or interior of the vehicle. As with the blanket prohibition on various kinds of integrative relationships between TNPs and vehicles, there does not appear to be any pro-competitive or pro-consumer rationale to support this sweeping prohibition. To the contrary, the logical and predictable

consequence of it will be to limit the sources of income to TNPs and TNP drivers and constrain the development of TNPs to the detriment of competition and consumers. Staff notes that advertising is presently permitted for taxis and charter-sightseeing vehicles, subject to approval by the commissioner based on certain criteria and a one-year permit fee, under Chapters 9-112-410 and 9-114-330. Staff, therefore, cautions against unnecessarily inhibiting new methods or models of doing business, such as those involving external advertising (e.g., magnetic signage or other exterior advertising) or interior advertising (e.g., interior signage or audio-visual equipment). Any restrictions on advertising should be narrowly drawn.<sup>31</sup>

## **V. Conclusion**

FTC staff appreciates this opportunity to provide views in regard to this matter and would be happy to address any questions you may have regarding competition policy in the passenger motor vehicle transportation marketplace.

Respectfully submitted,

Andrew I. Gavil, Director  
Office of Policy Planning

Deborah L. Feinstein, Director  
Bureau of Competition

Martin S. Gaynor, Director  
Bureau of Economics

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<sup>1</sup> This staff letter expresses the views of the Federal Trade Commission's Office of Policy Planning, Bureau of Competition, and Bureau of Economics. The letter does not necessarily represent the views of the Federal Trade Commission ("FTC" or "Commission") or of any individual Commissioner. The Commission has, however, voted to authorize staff to submit these comments.

<sup>2</sup> Federal Trade Commission Act, 15 U.S.C. § 45.

<sup>3</sup> Specific statutory authority for the FTC's competition advocacy program is found in Sections 6(a) and (f) of the FTC Act, under which Congress authorized the FTC "[t]o gather and compile information concerning, and to investigate from time to time the organization, business, conduct, practices, and management of any person, partnership, or corporation engaged in or whose business affects commerce," and "[t]o make public from time to time such portions of the information obtained by it hereunder as are in the public interest . . . ." 15 U.S.C. § 46(a), (f).

<sup>4</sup> Nat'l Soc'y of Prof'l Eng'rs v. United States, 435 U.S. 679, 695 (1978); *accord* FTC v. Superior Court Trial Lawyers Ass'n, 493 U.S. 411, 423 (1990).

<sup>5</sup> FTC Staff Comments Before the District of Columbia Taxicab Commission Regarding Second Proposed Rulemakings Regarding Chs. 12, 14, and 16 of Title 31 (June 7, 2013) ("D.C. Letter"), *available at* <http://www.ftc.gov/policy/policy-actions/advocacy-filings/2013/06/ftc-staff-comments-district-columbia-taxicab>; FTC Staff Comments to the Honorable Debbie Ossiander Concerning AO NO. 2013-36 Regarding the Regulatory Framework for the Licensing and Permitting of Taxicabs, Limousines, and Other Vehicles for Hire in Anchorage, Alaska (Apr. 19, 2013), *available at* <http://www.ftc.gov/policy/policy-actions/advocacy-filings/2013/04/ftc-staff-comment-anchorage-assembly-member-debbie>; FTC Staff Comments Before the Colorado Public Utilities Commission *In The Matter of The Proposed Rules Regulating Transportation By Motor Vehicle*, 4 Code of Colorado Regulations 723-6 (Mar. 6, 2013) ("Colorado Letter"), *available at* <http://www.ftc.gov/policy/policy-actions/advocacy-filings/2013/03/ftc-staff-comment-colorado-public-utilities>.

<sup>6</sup> The FTC sued the cities of New Orleans and Minneapolis in 1984, charging both cities with unfair competition by combining with taxicab operators to impose regulations that limited the number of taxicab licenses, increased fares, and eliminated competition in violation of the federal antitrust laws. The complaint against Minneapolis was withdrawn after the city revised its ordinance to permit more competition. The complaint against New Orleans also was withdrawn after the state authorized the conduct in question by a new law. *See generally* FTC, 1985 ANNUAL REPORT 5 (1985), *available at* <http://www.ftc.gov/reports/annual-report-1985>.

<sup>7</sup> ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT ("OECD"), DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS, COMPETITION COMMITTEE WORKING PARTY NO. 2 ON COMPETITION AND REGULATION, TAXI SERVICES REGULATION AND COMPETITION 199-210 (Sept. 11, 2008) (submission of the United States), *available at* <http://www.oecd.org/regreform/sectors/41472612.pdf>; MARK W. FRANKENA & PAUL A. PAUTLER, AN ECONOMIC ANALYSIS OF TAXICAB REGULATION (1984) (FTC Bureau of Economics Staff Report), *available at* <http://www.ftc.gov/sites/default/files/documents/reports/economic-analysis-taxicab-regulation/233832.pdf>.

<sup>8</sup> *See generally* U.S. DEP'T OF JUSTICE & FTC, ANTITRUST ENFORCEMENT AND INTELLECTUAL PROPERTY RIGHTS: PROMOTING INNOVATION AND COMPETITION (2007),

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available at <http://www.ftc.gov/reports/antitrust-enforcement-intellectual-property-rights-promoting-innovation-competition-report>; FTC, TO PROMOTE INNOVATION: THE PROPER BALANCE OF COMPETITION AND PATENT LAW AND POL'Y (2003), available at <http://www.ftc.gov/sites/default/files/documents/reports/promote-innovation-proper-balance-competition-and-patent-law-and-policy/innovationrpt.pdf>; FTC STAFF, ANTICIPATING THE 21st CENTURY: COMPETITION POL'Y IN THE NEW HIGH-TECH, GLOBAL MARKETPLACE (1996), available at [http://www.ftc.gov/system/files/documents/reports/anticipating-21st-century-competition-policy-new-high-tech-global-marketplace/gc\\_v1.pdf](http://www.ftc.gov/system/files/documents/reports/anticipating-21st-century-competition-policy-new-high-tech-global-marketplace/gc_v1.pdf); and FTC STAFF, ANTICIPATING THE 21<sup>st</sup> CENTURY: CONSUMER PROTECTION POL'Y IN THE NEW HIGH-TECH, GLOBAL MARKETPLACE (1996), available at [http://www.ftc.gov/system/files/documents/reports/anticipating-21st-century-competition-policy-new-high-tech-global-marketplace/gc\\_v2.pdf](http://www.ftc.gov/system/files/documents/reports/anticipating-21st-century-competition-policy-new-high-tech-global-marketplace/gc_v2.pdf).

<sup>9</sup> FTC STAFF, .COM DISCLOSURES: HOW TO MAKE EFFECTIVE DISCLOSURES IN DIGITAL ADVERTISING (2013), available at [http://ftc.gov/os/2013/03/130312\\_dotcomdisclosures.pdf](http://ftc.gov/os/2013/03/130312_dotcomdisclosures.pdf).

<sup>10</sup> See FTC STAFF, MOBILE PRIVACY DISCLOSURES: BUILDING TRUST THROUGH TRANSPARENCY (2013), available at [http://www.ftc.gov/os/2013/02/130201\\_mobileprivacyreport.pdf](http://www.ftc.gov/os/2013/02/130201_mobileprivacyreport.pdf).

<sup>11</sup> OECD Submission, *supra* note 7, at 200 (“As of 2007, the general description of the taxicab industry and taxicab regulation in the United States remains much as it was when Frankena and Pautler described it in 1984. That is, nothing dramatic has happened to alter the U.S. industry in the interim.”).

<sup>12</sup> See generally Lauren Goode, *Worth It? An App to Get a Cab*, WALL STREET J., June 17, 2011, available at <http://blogs.wsj.com/digits/2011/06/17/worth-it-an-app-to-get-a-cab/>.

<sup>13</sup> See generally *id.*

<sup>14</sup> See generally *id.*

<sup>15</sup> See generally Michael B. Farrell, *Taxi app Hailo to expand service*, BOSTON GLOBE, Feb. 5, 2013, available at <http://www.bostonglobe.com> (discussing booking fees, service fees, and gratuities); Brian X. Chen, *Uber, an App That Summons a Car, Plans a Cheaper Service Using Hybrids*, N.Y. TIMES, July 1, 2012, available at <http://www.nytimes.com> (discussing charging by time, distance, consumer demand, and gratuities).

<sup>16</sup> See generally Goode, *supra* note 12.

<sup>17</sup> See generally NEW YORK CITY TAXI & LIMOUSINE COMM'N, PRESENTATION, E-HAIL PILOT PROGRAM (Dec. 31, 2013) (second quarter assessment of the city's e-hail pilot program for regulated yellow taxicabs), available at [http://www.nyc.gov/html/tlc/downloads/pdf/ehail\\_q2\\_report\\_final.pdf](http://www.nyc.gov/html/tlc/downloads/pdf/ehail_q2_report_final.pdf).

<sup>18</sup> See generally *id.* at 8-9.

<sup>19</sup> This model is one example of the larger recent phenomena of the still developing “sharing economy” in which individuals may exchange or “share” goods and services using

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Internet-enabled communications technologies in ways that were previously impractical. Other examples include: car-sharing, parking space rentals, boat rentals, rentals of personal homes and apartments, dog kennel services, and the rental of personal goods. *See generally* ECONOMIST, *All eyes on the sharing economy*, Mar. 9, 2013 (Technology Quarterly: Q1 2013), available at <http://www.economist.com/news/technology-quarterly/21572914-collaborative-consumption-technology-makes-it-easier-people-rent-items>.

<sup>20</sup> Proposed 9-115-090(c) states that “No vehicle licensed as a taxi or public transportation vehicle in any jurisdiction shall be operated as a transportation network vehicle.”

<sup>21</sup> In addition to the provisions discussed in the body of this letter, staff also notes that under proposed amended Chapter 3-46-050 A.-B., TNPs, transportation network drivers, and transportation network vehicles would not be exempt from Chicago’s Motor Vehicle Lessor Tax and Personal Property Lease Transaction Tax, as are, respectively, other lessors or lessees of a ground transportation vehicle and persons leasing a ground transportation vehicle from a license holder. This differential tax treatment may put TNPs at a competitive disadvantage, versus other vehicle types. *See generally infra* note 26 and related text.

Likewise, under proposed amended Chapter 3-46-065 C., transportation network vehicle owners could not claim a tax credit for providing service to or from designated underserved areas, as can other ground transportation vehicle license holders. Such an exclusion may put TNPs at a competitive disadvantage in serving underserved areas. *See generally id.* Such an exclusion could also reduce the economic incentives of TNPs to provide service in underserved areas, generally. As noted above, applications may promote passenger motor vehicle transportation service to traditionally underserved areas. *See* NEW YORK CITY TAXI & LIMOUSINE COMM’N, *supra* note 17, at 10 (“E-Hail Apps are having the greatest effect on passengers and drivers in places that tend to be underserved by taxis.”). Staff, therefore, recommends that the Chicago City Council carefully consider the implications of excluding TNPs from receiving a tax credit for the provision of passenger motor vehicle transportation service in underserved areas.

<sup>22</sup> Municipal Code of Chicago Ch. 9-112-340(l) and Ch. 9-112-550(b). In addition, a one-year taxicab medallion license issuance or renewal fee for taxicabs that are not wheelchair accessible is \$600 and a one-year taxicab medallion license issuance or renewal fee for wheelchair accessible taxicabs is \$500. *Id.* at Ch. 9-112-150(a)(i)-(ii). The annual fees for passenger vehicles other than taxicabs are \$500 for a livery vehicle; \$500 for a charter/sightseeing vehicle; \$500 for a medical earner; and \$250 for jitney car service. *Id.* at Ch. 9-114-070.

<sup>23</sup> *See generally* ROBERT H. FRANK, MICROECONOMICS AND BEHAVIOR 37 (8<sup>th</sup> ed. 2010).

<sup>24</sup> Pricing practices should be truthful and non-deceptive, in order for the passenger motor vehicle transportation marketplace to function efficiently. *See generally* D.C. Letter, *supra* note 5, at 7-8 & nn.28-29 and Colorado Letter, *supra* note 5, at 4 & nn.17-18.

<sup>25</sup> For example, if there is evidence that consumers do not understand or are confused by alternative methods of calculating payments, the City Council could consider requiring better disclosures in lieu of fixing and limiting the range of permissible payment methods.

<sup>26</sup> *See generally* Steven C. Salop & David T. Scheffman, *Cost-Raising Strategies*, 36 J. INDUS. ECON. 19 (1987); Thomas G. Krattenmaker & Steven C. Salop, *Anticompetitive*

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*Exclusion: Raising Rivals' Costs to Achieve Power over Price*, 96 YALE L. J. 209 (1986); Steven C. Salop & David T. Scheffman, *Raising Rivals' Costs*, 73 AM. ECON. REV. 267 (1983).

<sup>27</sup> Consumers appear to be better off when regulators pursue alternatives for such locations that are less restrictive, such as redesigning taxicab stands, increasing taxicab line user fees, or entering into contracts with operators. OECD Submission, *supra* note 7, at 204-05; Staff Report, *supra* note 7, at 1, 50-51, 123-24, 156.

<sup>28</sup> It appears that in some cases first-in first-out taxicab queues have inhibited price competition, that drivers sometimes bickered over their places in line as queues of waiting cabs lengthened, and that drivers also sometimes refused service to passengers wanting only a short trip. OECD Submission, *supra* note 7, at 200; Staff Report, *supra* note 7, at 1, 50-51, 123-24, 156.

<sup>29</sup> Compare Proposed Chapter 9-115-180, with current Municipal Code of Chicago Chapter 9-112-210 (“Duty to maintain real time records as to a chauffeur operating a taxicab”) (requiring licensees to maintain real-time chauffeur identity data, and produce to the commissioner upon request information and data regarding which chauffer is operating a particular taxicab on any given date and time, and that taxicab medallion holders implement processes to enable the commissioner to access real-time data on chauffer identity and the taxicab’s location).

<sup>30</sup> See generally D.C. Letter, *supra* note 5, at 6-7. See also FTC Comments Before the Environmental Protection Agency Concerning Proposed Confidentiality Determinations for Data Required Under the Mandatory Greenhouse Gas Reporting Rule and Proposed Amendment to Special Rules Governing Certain Information Obtained Under the Clean Air Act (Sept. 30, 2010), available at <http://www.ftc.gov/policy/policy-actions/advocacy-filings/2010/09/ftc-comment-environmental-protection-agency> (discussing a proposed EPA rule concerning the confidentiality of data submitted under EPA’s Greenhouse Gas Reporting Rule).

<sup>31</sup> Because Proposed 9-115-120 would implement certain restrictions on commercial speech, it may also raise First Amendment issues. See generally *Central Hudson Gas & Elec. Corp. v. Pub. Serv. Comm’n of New York*, 447 U.S. 557 (1980) (articulating four-part test for evaluating whether government restrictions on commercial speech are constitutional).

**BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION**

**IN THE MATTER OF THE APPLICATION )  
OF HINTER-NM, LLC, FOR A CERTIFICATE )  
TO PROVE SPECIALIZED PASSENGER )  
AND TEMPORARY AUTHORITY )  
\_\_\_\_\_ )**

**Case No. 14-00151-TR-M**

**24 JUN 2 11 AM '14**

**NEW MEXICO  
PUBLIC REGULATION  
COMMISSION  
FILED**

**NOTICE OF APPLICATION FOR A CERTIFICATE**

The Transportation Division (“Staff”) of the New Mexico Public Regulation Commission (“Commission”) through this Notice of Application for a Certificate (“Notice”) hereby gives notice that Hinter-NM, LLC, (“Applicant”) on May 29, 2014, applied to the Commission for a certificate to provide specialized passenger service from points and places in Bernalillo County and the City of Rio Rancho, New Mexico to points and places in Bernalillo County and the City of Rio Rancho, New Mexico and return with no listed stationing point. On May 29, 2014, Applicant, by separate application, also applied for temporary authority for the same territory stated in its permanent application.

The Transportation Division Director has not certified the application as complete, as required by 18.3.2.16 B NMAC, because the application lacks certain information required by 18.3.2.15 NMAC and 18.3.2.21 NMAC. Applicant addresses the completeness of its application in its “Petition of Hinter-NM, LLC Requesting the Commission to Waive Certain Requirements for its Application for a Certificate to Provide Specialized Passenger Service and Temporary Authority”, which it also filed on May 29, 2014. The petition, in effect, asks the Commission to waive the 18.3.2.16 B NMAC requirement that the Director certify the application and to consider the application directly. The Director has not certified that the applied for operating authority, Specialized Passenger Service, is appropriate. 18.3.2.8 NMAC.

Any member of the general public desiring to view the application may do so at the Commission's web site: [www.nmprc.state.nm.us](http://www.nmprc.state.nm.us).

Under changes to the Motor Carrier Act, NMSA 1978, § 65-2A-1, et seq., that took effect July 1, 2013, the Commission cannot act on an application for a certificate less than twenty days after the date notice was electronically published ("Notice Period"). NMSA 1978, § 65-2A-6 A. Electronic publication is accomplished by posting the Notice on the Commission's web site and electronically sending the Notice to all motor carriers, public officials or agencies, or other persons or entities who have previously supplied electronic mail addresses to the Commission advising such persons or entities of the filing and posting. NMSA 1978, § 65-2A-6 A.

An additional change to the Motor Carrier Act that also took effect July 1, 2013, states that a person may file an objection to an application for a certificate during the Notice Period for the application. NMSA 1978, § 65-2A-13 A. The Commission is required to consider any objections filed during the Notice Period in regard to the determining whether to hold a hearing. NMSA 1978, § 65-2A-13 A. The Commission is not required to hold a hearing pursuant to any objection but may, in its discretion or on its own motion for any reason, hold a hearing on any application for a certificate. NMSA 1978, § 65-2A-5 B and -13 A.

The Commission is required to hold a hearing on an application for a certificate to provide taxicab service whenever a protest is filed within the Notice Period or Staff files a request for hearing within the Notice Period. NMSA 1978, § 65-2A-5 C and -13 B. The Motor Carrier Act defines a "protest" to mean, among other things, a pleading filed with the Commission by a full-service carrier that expresses an objection to an application for a certificate to provide passenger service when the territory involved in the application includes all or a portion of the full-service territory of the protesting carrier and when the grant of the application

will, or presents a reasonable potential to, impair, diminish or otherwise adversely affect its existing provision of full-service passenger service to the public within its full-service territory. NMSA 1978, § 65-2A-3 UU.

The Motor Carrier Act defines “full service” to mean, among other things, a certificated municipal taxicab service required to meet specific standards for the provision of service to or throughout a community. NMSA 1978, § 65-2A-3 T. It should be noted that since the definitions in the Motor Carrier Act of “protest” and “full service” became effective on July 1, 2013, the Commission has yet to adopt by rule or otherwise any specific standards applicable to the provision of certificated municipal taxicab service.

A protesting carrier is allowed to proceed as an intervenor in the application proceeding. NMSA 1978, § 65-2A-13 B. In any hearing held on an application, the protesting carrier has the burden of proving all matters of fact pertaining to its full-service operation within its certificated full-service territory, the burden of proving the potential impairment or adverse impact on its existing full-service operation by the transportation service proposed by the applicant and the burden of proving all other allegations and matters of public interest that it may raise. NMSA 1978, § 65-2A-13 C(2). The protesting carrier’s proof should include, without limitation, a demonstration with reasonable specificity of the nature of the existing full service being provided, the volume of passengers transported, economic analysis related to expenses and revenues of the full-service operation and the anticipated economic, business or functional effect of the proposed service on the existing provision of, or rates for, full-service transportation within the full-service territory. NMSA 1978, § 65-2A-13 C(2).

The Commission may allow other interested persons to intervene, either generally or on the basis of specific facts or issues (“Permissive Intervenor”). A Permissive Intervenor has the

burden of proof for its position on all factual matters and legal issues that it alleges and on which it is permitted to intervene. NMSA 1978, § 65-2A-13 C(3).

Any application for permissive intervention or protest is required to be accompanied by a fee of two hundred fifty dollars (\$250). NMSA 1978, § 65-2A-36 A(1).

The Commission's Motor Transportation Rules are also available at the Commission's web site.