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The San Francisco Municipal Transportation Agency (“SFMTA”) submits this Protest to Application No. 14-06-015 pursuant to Rule 2.6 of the rules of Practice and Procedure (“Rules”) of the California Public Utilities Commission (the “Commission”) as follows:

1. BACKGROUND AND SUMMARY

The SFMTA is a multi-modal transportation organization responsible for operating buses, rail, cable cars and a historic fleet of streetcars, as well as developing and implementing innovative transportation solutions to benefit auto drivers, transit riders, bicyclists and pedestrians. SFMTA programs and services promote safe, efficient and convenient mobility alternatives for San Francisco residents, commuters, businesses and visitors. In addition to providing public transportation service for the City and County of San Francisco (“the City”), SFMTA is charged with regulating the flow of vehicle, bicycle and pedestrian traffic, including regulations for parking, stopping and standing in San Francisco.

SFMTA has an interest in this proceeding to the extent that any authority granted by the Commission could impact or interfere with the either the public transit service operated by SFMTA or the flow of traffic in the City. There has been a substantial increase in the number of privately operated transportation services operating in the City in recent years. These services include commuter shuttles, service operated by Transportation Network Companies (“TNCs”) and privately operated common carrier services, such as that proposed by Applicant.

2. CORRESPONDENCE AND COMMUNICATIONS

All subsequent correspondence, communications and pleadings in connection with this Response or the subject Application should be directed to:

David A. Greenburg
Office of the City Attorney
City and County of San Francisco
1390 Market Street, 7th Floor
San Francisco, CA 94102
Tel: (415) 554-3958
Fax: (415) 255-3139
Email: david.greenburg@sfgov.org

with a copy to

Jerry Robbins, Interim Director
Sustainable Streets Division
San Francisco Municipal Transportation Agency
One South Van Ness Avenue, 7th Floor
San Francisco, CA 94103
Tel: (415) 701-4490
Fax: (415) 701-4735
Email: jerry.robbsins@sfmta.com

3. GROUNDS FOR PROTEST

- A. **The Commission should decline to consider the Application because Applicant's proposed service does not require a Certificate of Public Convenience and Necessity and Applicant does not meet the definition of "Passenger Stage Corporation."**

Applicant Leap, Inc. ("Leap") filed this application on June 13, 2014, and the application was noticed in the Commission's Daily Calendar on June 25, 2014. Leap seeks a Certificate of Public Convenience and Necessity ("CPCN") from the Commission to operate as a fixed route passenger stage corporation between points located exclusively within the City. Because the proposed service is located entirely within the City, it does not require a CPCN, and Leap does not meet the definition of a Passenger Stage Corporation ("PSC").

Under Public Utilities Code §226, the definition of "Passenger stage corporation" explicitly excludes a carrier where at least 98% of the carrier's

operations, as measured by total route mileage, occur exclusively within the limits of a single city or city and county. Based on the proposed service described in Leap's application, Leap does not meet definition of PSC. As this Commission has recognized, "[t]he plain meaning of Code § 226 is that any corporation or person that would otherwise be a PSC that meets the criteria of the 98% exemption is not actually a PSC." (Decision No.12-11-002; 2012 WL 5879622, rehearing denied and modified by Decision No. 12-04-24; 2014 WL 1478352) Accordingly, the Commission should decline to consider Leap's application.

B. In the alternative, if the Commission intends to consider Leap's application, any routes approved should not include service on street segments for which travel by commercial vehicles with a capacity of nine or more persons is restricted under the San Francisco Transportation Code.

San Francisco is a very densely populated urban area with unique geography that experiences significant traffic congestion due to high volumes of motor vehicle, bicycle and pedestrian traffic. The City is unique in terms of California cities due to both its unique geography and its status as a premier tourist destination located in a small area.

In order to help improve traffic flow and reduce congestion, San Francisco has established street restrictions in Sections 501 and 503 of the City's Transportation Code. With specified exceptions, these provisions restrict certain types of vehicles from traveling on specified street segments. Section 501 establishes street restrictions based on vehicle weight, and Section 503 prohibits commercial vehicles with a seating capacity of nine or more persons, including the driver, from traveling on specified street segments. The restrictions have been developed following analysis by SFMTA and its predecessor agencies, taking into account a broad range of considerations,

including geography, roadway capacity, vehicular, bicycle and pedestrian traffic patterns and volume, as well as neighborhood characteristics.

One set of restricted street segments, set forth in San Francisco Transportation Code Section 503(b) (attached as Exhibit 1), encompasses an area “bounded by Chestnut Street to Baker Street, to Marina Boulevard to Laguna Street, to Bay Street, to Franklin Street and returning to Chestnut Street, and including the boundary streets of the area.” (San Francisco Transportation Code Section 503(b)(7)). Nonetheless, a portion of the proposed “Launch Route” includes travel on restricted portions of Chestnut and Divisadero Streets. SFMTA objects to the inclusion of these portions of Chestnut and Divisadero Streets on the proposed route. Chestnut Street is a two-lane street in a mixed use area of residential and commercial uses. The street is frequently congested, and parking can be very difficult, contributing to the congestion. It is for these reasons that the City has included these street segments in the Transportation Code street restrictions, and allowing the 29-passenger buses that Leap proposes to operate to travel on, and stop along, these streets would only aggravate this congestion.

Accordingly, SFMTA requests that in the event the Commission grants a CPCN to Leap, that the approved routes comply with San Francisco’s street restrictions, including not authorizing travel on the restricted portion of Chestnut Street.

Finally, SFMTA is concerned about unauthorized use of SFMTA bus stops. Leap has stated in its application that it will not use SFMTA bus stops, but SFMTA requests that any CPCN granted to Leap include a condition that Leap is not to use SFMTA stops (“red zones”).

4. CONCLUSION

For the reasons set forth above, the SFMTA requests that the Commission reject Application 14-06-015. In the alternative, if the Commission grants a CPCN to the Applicant, SFMTA requests that any routes approved by the CPCN conform to the street restrictions set forth in Section 503(b) of the San Francisco Transportation Code, and that the CPCN include as a condition that applicant's buses shall not use SFMTA bus stops for passenger loading and unloading.

Dated: July 25, 2014

Respectfully submitted,

DENNIS J. HERRERA
City Attorney
ROBERT S. MAERZ
DAVID A. GREENBURG
Deputy City Attorneys

By: _____ /s/
DAVID A. GREENBURG

Attorneys for Protestant
SAN FRANCISCO MUNICIPAL
TRANSPORTATION AGENCY

1390 Market Street
Sixth Floor
San Francisco, California 94102-4682
Telephone: (415) 554-3958
Facsimile: (415) 255-3139
Email: david.greenburg@sfgov.org

EXHIBIT 1

SEC. 503. COMMERCIAL PASSENGER VEHICLES; RESTRICTED STREETS.

(a) **Prohibition.** Operation of a commercial vehicle with seating capacity of nine or more persons (including the driver), used or maintained for the transportation of persons for profit, upon any Street listed in Section 503 (b) is a violation of Division I, Section 7.2.87 (Commercial Passenger Vehicle Restrictions).

(b) **Restricted Streets.** Except as otherwise provided in this Code, no person shall operate a commercial vehicle with seating capacity of nine or more persons, including the driver, used or maintained for the transportation of persons for profit, upon the following Streets or within the following areas:

- (1) 6th Avenue, between Lincoln Way and Kirkham Street.
- (2) 16th Avenue, between Lawton and Noriega Streets.
- (3) 15th Avenue, between 14th Avenue and Ortega Street.
- (4) 18th Street, between Church and Market Streets.
- (5) 25th Avenue between Lake Street and El Camino Del Mar.
- (6) 26th Avenue, between Geary Boulevard and California Street, except that tour buses of 6,000 pounds or less in weight may operate in this location.
- (7) Area bounded by Chestnut Street to Baker Street, to Marina Boulevard to Laguna Street, to Bay Street, to Franklin Street and returning to Chestnut Street, and including the boundary streets of the area.
- (8) Area bounded by southerly line of Bay Street and Columbus Avenue, westerly line of Taylor Street, northerly line of Union Street and easterly line of Polk Street.
- (9) Area bounded by the southerly line of Golden Gate Avenue, the westerly line of Webster Street, the northerly line of Fell Street and the easterly line of Divisadero Street, and excluding the boundary streets of the area, except that regularly-scheduled buses operated or chartered by an organization for the purpose of transporting its employees to or from their place of employment may operate in this location.
- (10) Baker Street between Richardson Avenue and Union Street.
- (11) Bay Street between Baker and Lyon Streets.
- (12) Beaumont Avenue between Anza and Turk Streets.
- (13) Broderick Street between O'Farrell and Turk Streets.
- (14) Broderick Street between Richardson Avenue and Union Street.
- (15) Chestnut Street between Lyon Street and Richardson Avenue.
- (16) Chestnut Street between Mason and Stockton Streets.
- (17) Corbett Avenue between 17th and 24th Streets.
- (18) Eddy Street between Divisadero Street and St. Joseph's Avenue.
- (19) El Camino Del Mar between 25th Avenue and Legion of Honor Drive.
- (20) El Camino Del Mar between the Presidio (approximately 290 feet east of 25th Avenue) and 25th Avenue.
- (21) Ellis Street between Divisadero Street and St. Joseph's Avenue.

- (22) Filbert Street between Lyon and Divisadero Streets.
- (23) Francisco Street between Mason and Stockton Streets.
- (24) Franklin Street between California and Lombard Streets.
- (25) Green Street between Grant Avenue and Montgomery Street.
- (26) Green Street between Polk and Mason Streets.
- (27) Greenwich Street between Lyon and Divisadero Streets.
- (28) Jones Street between Union Street and Pacific Avenue.
- (29) Larkin Street between Union Street and Pacific Avenue.
- (30) Leavenworth Street between Union Street and Pacific Avenue.
- (31) Lombard Street between Mason and Kearny Streets.
- (32) Lombard Street between Van Ness Avenue and Polk Street.
- (33) Lomita Avenue between 16th Avenue and Aloha Street.
- (34) Lyon Street between Francisco and Green Streets.
- (35) Mason Street between Lombard and Francisco Streets.
- (36) Montgomery Street between Green Street and Broadway.
- (37) Moraga Street between 16th and 17th Avenues.
- (38) Noriega Street between 14th Avenue and 16th Avenue.
- (39) Olympia Way between Clarendon Avenue and Panorama Drive.
- (40) Panorama Drive between Clarendon Avenue and Twin Peaks Boulevard.
- (41) Parker Avenue between Anza and Turk Streets.
- (42) Powell Street between Lombard and Francisco Streets.
- (43) Rossi Avenue between Anza and Turk Streets.
- (44) Seal Rock Drive between 45th Avenue and El Camino Del Mr.
- (45) St. Joseph's Avenue, between O'Farrell Street and Turk Street.
- (46) Stanyan Street between Anza and Turk Streets.
- (47) Stockton Street between Lombard and Francisco Streets.
- (48) Taylor Street between Columbus Avenue and Pacific Avenue.
- (49) Telegraph Hill Boulevard between Kearny Street and Coit Tower parking lot.
- (50) Twin Peaks Boulevard between Clayton Street and Burnett Drive.
- (51) Union Street between Steiner and Lyon Streets.
- (52) Vallejo Street between Montgomery and Sansome Streets.
- (53) Vallejo Street between Polk and Mason Streets.

(c) **Exceptions.** The requirements of this Section shall not be applicable to:

(1) Any vehicle which is subject to the provisions of Sections 1031 to 1036, inclusive, of the California Public Utilities Code and which has received a certificate from the CPUC pursuant to those Sections declaring that the public necessity and convenience require the operation of the vehicle, provided that the certificate authorizes that vehicle to be operated within the City, and the vehicle is being operated for the purpose authorized in, and consistent with the terms of, the certificate. This exemption shall not apply to vehicles operated as round-trip sightseeing tour service as defined by the CPUC;

(2) Any commercial vehicle coming from an unrestricted Street having ingress and egress by direct route to and from that portion of the restricted Streets set forth above, when necessary for the purpose of making pickups or deliveries of passengers, goods, wares and merchandise from or to any building or structure located on such restricted Street;

(3) Any vehicle owned by a public utility while in use in the construction, installation or repair of any public utility;

(4) Transit vehicles operated by the SFMTA along a regularly scheduled route;

(5) School buses when operated for the transportation of school pupils;

(6) Any jitney bus operating pursuant to authority granted by a City permit;

(7) Any vehicle owned by the City while being used in the course of official business;

(8) Any private vehicle that is operating pursuant to a contract with the City of San Francisco for the purpose of providing services to the public; or

(9) Emergency vehicles.

(Added by SFMTA Bd. Res. No. 10-139, Ad. 11/2/2010; amended by SFMTA Bd. Res. No. 11-004, Ad. 1/4/2011; SFMTA Bd. Res. No. 11-134, Ad. 10/18/2011, Eff. 11/18/2011; SFMTA Bd. Res. No. 13-249, Ad. 11/19/2013, Eff. 12/20/2013)