



Cheryl Davila
Councilmember
District 2

CONSENT CALENDAR

October 13, 2020

To: Honorable Mayor and Members of the City Council

From: Councilmembers Cheryl Davila (Author), Ben Bartlett (Co-Author),
and Sophie Hahn (Co-Sponsor)

Subject: Oppose Proposition 22 on the November 2020 ballot

RECOMMENDATION

1. Adopt a resolution opposing Proposition 22 on the November 2020 ballot.
2. Send a letter to the 'No on CA Prop 22' coalition.

BACKGROUND

Current state law, AB 5, established a criteria-based test that is designed to determine a worker's status as an employee or an independent contractor for the purposes of deciding whether a worker was entitled to benefits and regulations found in the California Wage Orders.¹ In relation to app-based drivers, this law seeks to protect gig company employees who are not receiving labor protections and benefits, such as unemployment insurance, paid time off, overtime pay, workers' compensation, a guaranteed minimum wage, and the ability to unionize.² Despite the passing of AB 5, Uber and Lyft have insisted on misclassifying their workers as independent contractors in order to avoid providing their workers with a minimum wage, healthcare, paid sick leave, unemployment insurance, and other critical employee benefits.

Multibillion-dollar corporations such as Uber, Lyft, and DoorDash have invested \$181 Million to exempt themselves from current state law, AB-5, which requires companies to hire their drivers and deliverers as employees, not independent contractors. This law would ensure that Uber, Lyft and other app companies provide the same basic rights and protections to their drivers that all other employers provide to their workers in California.

These same Multibillion-dollar corporations have paid to place Proposition 22 on this November ballot. They hired lawyers to write misleading initiatives and paid political operatives millions to collect the voter signatures they needed.

Proposition 22 is a special exemption that would allow Uber and other app companies to continue denying their drivers the rights and protections they are owed - for example paid sick and vacation leave, workers compensation or unemployment benefits.

¹ [https://ballotpedia.org/California_Assembly_Bill_5_\(2019\)](https://ballotpedia.org/California_Assembly_Bill_5_(2019))

² <https://www.vox.com/2019/9/11/20850878/california-passes-ab5-bill-uber-lyft>

Proposition 22 only applies to Uber and the app companies. It is designed to maximize their profits by shifting the cost of doing business onto their drivers. 78% of whom are people of color, and 70% of drivers work more than 30 hours a week. Proposition 22 will exploit marginalized communities and further reify a substantial role in systems of oppression and inequity that harm Black, Brown, and Indigenous workers, and other workers of color. No other California business would benefit from this special exemption.

Current state law requires Uber and the app companies to provide their drivers with rights and protections, just like every other California business. The Attorney General recently sued them for breaking this law.

Proposition 22 was written by multibillion-dollar companies, not drivers nor workers. The City of Berkeley must take a stance against Proposition 22 and ensure that every employee, especially app-based drivers, in California receive what they are entitled to: a minimum wage for all hours worked, overtime pay, health and unemployment insurance, and the right to unionize. That's why we must oppose Proposition 22.

FINANCIAL IMPLICATIONS

None.

ENVIRONMENTAL SUSTAINABILITY

Protecting our workers during this climate and health crisis is an act of environmental sustainability.

CONTACT PERSONS

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ATTACHMENTS:

1. Resolution
2. Letter to No on CA Prop 22 Coalition

RESOLUTION NO. ##,###-N.S.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BERKELEY, CALIFORNIA,
OPPOSING PROPOSITION 22 ON THE NOVEMBER 2020 BALLOT

WHEREAS, Current state law, AB 5, established a criteria-based test that is designed to determine a worker's status as an employee or an independent contractor for the purposes of deciding whether a worker was entitled to benefits and regulations found in the California Wage Orders. In relation to app-based drivers, this law seeks to protect gig company employees who are not receiving labor protections and benefits, such as unemployment insurance, paid time off, overtime pay, workers' compensation, a guaranteed minimum wage, and the ability to unionize. Despite the passing of AB 5, Uber and Lyft have insisted on misclassifying their workers as independent contractors in order to avoid providing their workers with a minimum wage, healthcare, paid sick leave, unemployment insurance, and other critical employee benefits; and

WHEREAS, Multibillion-dollar corporations such as Uber, Lyft, and DoorDash have invested \$181 Million to exempt themselves from current state law, AB-5, which requires companies to hire their drivers and deliverers as employees, not independent contractors. This law would ensure that Uber, Lyft and other app companies provide the same basic rights and protections to their drivers that all other employers provide to their workers in California; and

WHEREAS, These same Multibillion-dollar corporations have paid to place Proposition 22 on this November ballot. They hired lawyers to write misleading initiatives and paid political operatives millions to collect the voter signatures they needed.

WHEREAS, Proposition 22 is a special exemption that would allow Uber and other app companies to continue denying their drivers the rights and protections they are owed - for example paid sick and vacation leave, workers compensation or unemployment benefits; and

WHEREAS, Proposition 22 only applies to Uber and the app companies. It is designed to maximize their profits by shifting the cost of doing business onto their drivers. 78% of whom are people of color, and 70% of drivers work more than 30 hours a week. Proposition 22 will exploit marginalized communities and further reify a substantial role in systems of oppression and inequity that harm Black, Brown, and Indigenous workers, and other workers of color. No other California business would benefit from this special exemption; and

WHEREAS, Current state law requires Uber and the app companies to provide their drivers with rights and protections, just like every other California business. The Attorney General recently sued them for breaking this law; and

WHEREAS, Proposition 22 was written by multibillion-dollar companies, not drivers nor workers. The City of Berkeley must take a stance against Proposition 22 and ensure that every employee, especially app-based drivers, in California receive what they are entitled to: a minimum wage for all hours worked, overtime pay, health and unemployment insurance, and the right to unionize. That's why we must oppose Proposition 22.

NOW, THEREFORE, BE IT RESOLVED that the City Council for the City of Berkeley oppose Proposition 22 on the November 2020 ballot; and

BE IT FURTHER RESOLVED, that the City Council for the City of Berkeley send a letter to the 'No on CA Prop 22' coalition.

Attachment 2

October XX, 2020

No on CA Prop 22 coalition

Re: Vote No on Proposition 22 or “Exempts App-Based Transportation and Delivery Companies from Providing Employee Benefits to Certain Drivers”

Dear No on CA Prop 22 coalition,

The Berkeley City Council respectfully opposes Proposition 22, which would consider app-based drivers as contractors instead of employees and create different labor and wage policies for these drivers. It would also prevent components related to app-based drivers in California Assembly Bill 5 from being affected.

Proposition 22 will disrupt the rights of and exploit workers by creating a legal channel for gig companies to not provide their workers with critical employment benefits. In addition, this proposition will have an inequitable impact on communities of color who make up most of the population of app-based drivers. As a result, we must vote NO on Proposition 22 and ensure that every employee, especially app-based drivers, in California receive what they are entitled to: a minimum wage for all hours worked, paid sick leave, overtime pay, health and unemployment insurance, and the right to unionize.

The City of Berkeley is in solidarity with the No on CA Prop 22 coalition.

Respectfully,

The Berkeley City Council