

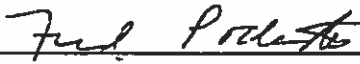


City of Seattle

Edward B. Murray, Mayor

Finance and Administrative Services

Fred Podesta, Director

Applicant:	Page:	Revises:
City of Seattle	1 of 4	New
Department of Finance and Administrative Services	Publication:	Effective:
	12/29/2016	12/29/2016
Director's Rule:	Code and Section Reference:	
FHDR-1, Qualifying Driver and Lists of Qualifying Drivers	SMC 6.310.110 and .735	
	Type of Rule:	
	Code Interpretation	
	Ordinance Authority:	
	SMC 3.02.060	
Approved:		
	12/27/2016	
Fred Podesta, Director	Date	

FILED
CITY OF SEATTLE
2016 DEC 29 AM 9:39
CITY CLERK

City of Seattle Rules for For-Hire Drivers

Rule FHDR-1, Qualifying Driver and Lists of Qualifying Drivers (SMC 6.310.110 and .735)

Introduction

The following Rule establishes the conditions that define a Qualifying Driver as authorized by the Seattle Municipal Code (SMC).

In adopting the Rule, the Director has considered the available data regarding trips by for-hire drivers, discussions with and survey responses from drivers, standards established by other jurisdictions for granting persons the right to vote and to be represented in negotiations pertaining to the terms and conditions of employment and the factors set forth in the SMC, and has established conditions that indicate that a driver's work for a Driver Coordinator is significant enough to affect the safety and reliability of for-hire transportation in that the driver has a sufficient stake in and knowledge of conditions that affect the safety and reliability of that Driver Coordinator's for-hire transportation services.

Qualifying Driver

A qualifying driver is a for-hire driver licensed under the SMC who meets the following conditions:

- Was hired by or began contracting with, partnering with or maintaining a contractual relationship with a particular Driver Coordinator at least 90 days prior to the commencement date;¹ and
- Drove at least 52 trips originating or ending within the Seattle city limits for a particular Driver Coordinator during any three-month period in the 12 months preceding the commencement date. A trip is defined as transporting a passenger from one place to another for compensation.
 - Any driver who is an active member of the U.S. military and could not provide trips because he/she was deployed on a military assignment outside of the greater Seattle area will qualify if he/she drove at least 52 trips originating or ending within the Seattle city limits for a particular Driver Coordinator during any three-month period in the 24 months preceding the commencement date. A trip is defined as transporting a passenger from one place to another for compensation. The driver must provide documentation corroborating the deployment and trips driven to the Director for inspection and to confirm qualification.

The City recognizes that a driver may drive for multiple Driver Coordinators and may be a qualifying driver for more than one Driver Coordinator. For purposes of determining whether a driver is a "qualifying driver" under the provisions of the SMC, a Driver

¹ The initial commencement date is January 17, 2017. Ninety days prior to the initial commencement date is October 19, 2016 and 12 months prior is January 17, 2016. Subsequent commencement dates will be promulgated by the Director pursuant to the SMC.

Coordinator should count only the trips driven by the driver for that particular Driver Coordinator.

Nothing in this Rule or in the SMC will be construed to require or authorize a Driver Coordinator to ask drivers to identify themselves as driving for another Driver Coordinator.

Lists of Qualifying Drivers Created by Driver Coordinators

Within 14 calendar days of its designation as a Qualified Driver Representative (QDR), or within 58 days of the commencement date if the QDR has previously been designated, a QDR will notify a Driver Coordinator of its intent to represent those drivers.² Driver Coordinators that hire, contract with or partner with 50 or more non-employee for-hire drivers for the purpose of assisting them with, or facilitating them in, providing for-hire services to the public (which may include taxicab associations, for-hire vehicle companies, TNCs or other entities) will then create qualifying driver lists (driver list) based on the conditions established by this Rule. The accuracy of a driver list's content is the responsibility of the Driver Coordinator creating it, not the City's responsibility.

A driver list will include all drivers who satisfy the specified conditions above. After a QDR gives a Driver Coordinator notice as specified in the SMC, a Driver Coordinator will produce and transmit the list of qualifying drivers to the QDR within 75 calendar days of the commencement date. That same list will later be used to ascertain whether a QDR has obtained statements of interest from a majority of qualifying drivers.

A Driver Coordinator will notify the City by e-mail (DriverRepresentation@seattle.gov) of the date the driver list was transmitted to a QDR. A QDR will notify the City by e-mail (DriverRepresentation@seattle.gov) of the date the driver list was received from a Driver Coordinator. The notifications will not include a copy of the driver list.

At a minimum, a driver list will include the following information for all non-employee qualifying drivers working for a Driver Coordinator:

1. Name (last name, first name and middle initial)
2. Mailing address
3. E-mail address (if available)
4. Phone number (if available)
5. Valid for-hire driver license/permit number (issued by King County/City of Seattle)³
6. Valid Washington State driver's license number or, where the driver was permitted to list a different state's driver's license number in the for-hire driver's license/permit application, driver's license number from that other state

² Per the SMC, a Driver Coordinator will not be subject to the requirements of a driver representation effort associated with a specified commencement date more than once in any 12-month period. The 12-month period begins on the date a QDR gives a Driver Coordinator a notice of intent to represent those drivers. For any specified commencement date, however, more than one QDR may attempt to organize the drivers of the same Driver Coordinator.

³ For purposes of creating a list of qualifying drivers, a driver must possess a valid (i.e., unexpired or, if expired, expired for no more than 60 days) for-hire driver license/permit on the date the list is created. Sixty days is given as a grace period while an expired license/permit goes through the renewal process.

A Driver Coordinator will make a driver list available in an electronic format such as an Excel spreadsheet that allows a QDR to read, sort and organize the driver information/data supplied. A scanned document presented in the Portable Document Format (PDF), for example, does not meet the standard under this Rule. A Driver Coordinator will devise and employ a way to securely transfer driver lists to a QDR and to secure, through password protection or other means, access to those lists.

Per the SMC, a QDR will use driver lists solely for the purpose of contacting drivers to solicit their interest in being represented by the QDR. A QDR may not sell, publish or otherwise disseminate driver contact information outside the QDR, the QDR's employees and the QDR's agents. A QDR must take all reasonable steps to ensure that another party does not misuse the list. A QDR will be held responsible if another party misuses the list provided by a Driver Coordinator to that QDR. Violations of this provision by a QDR and/or another party will be addressed through the enforcement processes specified in the SMC.



City of Seattle
Edward B. Murray, Mayor

Finance and Administrative Services
Fred Podesta, Director

Applicant:	Page:	Revises:
City of Seattle	1 of 5	New
Department of Finance and Administrative Services	Publication:	Effective:
	12/29/2016	12/29/2016
Director's Rule:	Code and Section Reference:	
FHDR-2, Application Process for Designating a Qualified Driver Representative	SMC 6.310.110 and .735	
	Type of Rule:	
	Code Interpretation	
	Ordinance Authority:	
	SMC 3.02.060	
Approved:		
		
Fred Podesta, Director		
12/27/2016		
Date		

2016 DEC 29 AM 9:39
CITY CLERK

City of Seattle Rules for For-Hire Drivers

Rule FHDR-2, Application Process for Designating a Qualified Driver Representative (SMC 6.310.110 and .735)

The following Rule establishes the application process to designate a Qualified Driver Representative (QDR) as authorized by the Seattle Municipal Code.

The QDR renewal process and associated deadlines will appear in a separate rule.

Application

Any organization wishing to apply to be designated a QDR must meet all of the following qualifications:

1. Be registered with the Washington Secretary of State as a nonprofit corporation.
2. Have organizational bylaws that give for-hire drivers the right to be members of the organization and participate in the democratic control of the organization.
3. Have experience in and/or a demonstrated commitment to assisting stakeholders in reaching consensus agreements with, or related to, employers and contractors.
4. Does not interfere with, restrain or coerce¹ drivers in the exercise of their right to decide whether to authorize the QDR to represent them, their right to become members of or refrain from membership in the QDR or any other right protected in the SMC. This will not impair the right of a QDR or EDR to prescribe its own rules with respect to the acquisition or retention of membership therein.
5. Is not dominated or controlled by any current Driver Coordinator and does not receive any financial support from a Driver Coordinator. Domination or control will mean that the Driver Coordinator has assisted and supported the QDR's operation and activities to such an extent that it must be looked at as the Driver Coordinator's creation.

An organization seeking such designation must submit information on a City supplied application form with following sections:

Section 1

Organization's name and contact information (mailing address, phone number and e-mail address)

¹ The Director will rely primarily on Washington State Public Employment Relations Commission (PERC) cases and secondarily upon federal National Labor Relations Board authority to interpret the terms "interfere with, restrain or coerce" and "dominate or control."

Section 2

Designated representative, which includes the name of and contact information (mailing address, phone and e-mail address) for the person representing the organization and certifying the application on the organization's behalf; the person must be vested with authority to manage or direct the affairs of the organization or to bind the organization in dealings with third parties

Section 3

Proof of nonprofit status, which includes either a Unified Business Identifier (UBI) number or a certificate of formation from the Washington Secretary of State

Section 4

Current bylaws

- a. The bylaws will need to include language allowing for-hire drivers to be members of the organization and to participate in democratic control of the organization
- b. The organization will highlight relevant language in a copy of the bylaws provided to the City

Section 5

Statement of experience and/or commitment

- a. The statement will highlight commitment to and/or experience with, including any specific and relevant examples, assisting stakeholders in reaching consensus agreements with, or related to, employers and contractors
- b. The statement will be 1,500 words or less and include three references for the organization itself (name and contact information for each reference)

Section 6

Disclosures

- a. Answers to questions and, if applicable, explanations of those answers provided as attachments to the application form. Questions will cover:
 - i. Financial indebtedness, if any, and funding sources,
 - ii. Financial support received from any current Driver Coordinator,
 - iii. Involvement by current and former City employees,
 - iv. Compliance/criminal background and
 - v. Any parent or affiliated organization.

Section 7

Certification

- a. An original signature and date from the organization's representative

At the Director's discretion, the City may require an organization to submit additional information to assist decision-making on the QDR designation.

Within 14 calendar days of receipt of the application, or, if requested by the Director, receipt of additional information from the applicant, the City will notify applying entities by e-mail whether they have been designated a QDR. To facilitate communication between a QDR and Driver Coordinator, the City will make available on a City website the names and contact information for all designated QDRs and all known Driver Coordinators.

An organization's designation as a QDR by the City does not guarantee that the QDR will be designated as an EDR. A QDR must continuously meet the qualifications described in this Rule to maintain its QDR designation. If at any time the Director determines that an entity no longer meets the QDR qualifications described in this Rule, the Director will withdraw the entity's QDR status. The Director's decision can be appealed to the Hearing Examiner per the SMC.

Director's Review and Determination

Upon receipt of an application, the Director will perform an initial screen of all application materials for completeness. If the application has a material omission or misstatement, then the Director will deny it outright.

For sections 3 and 4 of the application, the Director will assign either a pass or a fail. To determine whether an organization has sufficient experience in or commitment to reaching consensus agreements (section 5), the Director will consider factors including, but not limited to, the organization's bylaws, constitution, or other evidence of its purposes and functions; the length of time the organization and/or the person or persons vested with authority to manage or direct the affairs of the organization has assisted stakeholders in reaching consensus agreements with, or related to, employers and contractors; the number of consensus agreements reached; the number of persons covered by the consensus agreements; and the nature and number of activities/campaigns demonstrating a commitment to reaching consensus agreements and the outcome of those activities/campaigns.

For the various disclosures covered under section 6, the Director has the discretion to consider any affirmative response and its supporting explanation to reasonably determine whether the organization can or cannot fulfill the QDR responsibilities and requirements set forth in the SMC. The Director also has the discretion to consider any allegations that an entity seeking QDR designation is dominated or controlled by, or receives any financial support from, any current Driver Coordinator.

Timeline

The City will open the QDR application period in connection with the initial commencement date as well as any subsequent commencement dates established. A prospective QDR's application materials, including disclosures, will be made publicly available via a City website.

An organization applying to be designated as a QDR will observe the following key dates:

- Initial commencement date: January 17, 2017

- 15 calendar days before commencement date: City makes applications publicly available
- Commencement date: first day applications accepted by the City
- 30 calendar days after commencement date: last day applications accepted by the City
- Various dates: the City will notify the organization, by e-mail, of its determination within 14 calendar days of receipt of application or additional information, if requested by the Director
- Various dates: an applicant may appeal the City's determination to the Office of Hearing Examiner within 10 calendar days of receiving the determination
- Various dates: a QDR that has been designated as a QDR by the City following a commencement date and seeks to represent a particular Driver Coordinator's drivers will notify that Driver Coordinator within 14 calendar days of being designated as a QDR.² A QDR that has been designated prior to a commencement date will notify a Driver Coordinator of intent to represent its drivers within 58 calendar days³ of any subsequent commencement date. The QDR must reasonably plan its notification to ensure it reaches the Driver Coordinator.
- Notice sent by U.S. mail, personal delivery or e-mail to a Driver Coordinator using contact information available from the City will be deemed to comply with this obligation.
- Appeals: in the event of an appeal of the Director's determination by a QDR applicant, all applicable deadlines may be suspended at the Director's discretion; in that event, after the appeal is decided, the deadlines will resume per the schedule specified by the SMC.

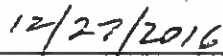
² Per the SMC, a Driver Coordinator will not be subject to the requirements of a driver representation effort associated with a specified commencement date more than once in any 12-month period. The 12-month period begins on the date a QDR gives a Driver Coordinator a notice of intent to represent those drivers. For any specified commencement date, however, more than one QDR may attempt to organize the drivers of the same Driver Coordinator.

³ The 58 calendar days is the sum of the time that an applicant obtaining designation as a QDR following a commencement date would have to give such notice: 30 calendar days (for a prospective QDR to apply for City designation), 14 days (for the City to make a determination on the prospective QDR's application) and 14 days (for a designated QDR to inform a Driver Coordinator of its intent to represent drivers).



City of Seattle
Edward B. Murray, Mayor

Finance and Administrative Services
Fred Podesta, Director

Applicant: City of Seattle Department of Finance and Administrative Services	Page: 1 of 10	Revises: New
	Publication: 12/29/2016	Effective: 12/29/2016
Director's Rule: FHDR-3, Certification of an Exclusive Driver Representative	Code and Section Reference: SMC 6.310.110 and .735	Type of Rule: Code Interpretation
	Ordinance Authority: SMC 3.02.060	
Approved:  Fred Podesta, Director		
 Date		

CITY CLERK
2016 DEC 29 AM 9:40

City of Seattle Rules for For-Hire Drivers

Rule FHDR-3, Certification of an Exclusive Driver Representative (SMC 6.310.110 and .735)

This Rule establishes the process to certify an Exclusive Driver Representative (EDR) as authorized by the Seattle Municipal Code.

Collection and Submittal of Drivers' Statements of Interest

Within 120 calendar days of receiving driver contact information via a qualifying driver list from a particular Driver Coordinator, a designated Qualified Driver Representative (QDR) seeking certification as an EDR may petition and submit statements of interest to the Director, or to an independent third party designated by the Director (which, as set forth in greater detail below, may be a governmental or non-governmental entity) from at least a majority (i.e., 50% + 1) of qualifying drivers from the driver list. A QDR will notify the Driver Coordinator that contracts with the drivers that the QDR seeks to represent on the same day that it submits a request for certification.

A QDR may choose to use either an electronic option or a paper-based option (but not a combination of the two options) to collect drivers' statements of interest.

Electronic Option

1. In addition to the driver's full name (first, last, and middle initial), the QDR's name, and the name of the driver's Driver Coordinator, which must be set forth as provided in subsection e. below, an electronic statement of interest submitted must clearly and conspicuously show:

- a. Driver's e-mail address
- b. Driver's telephone number
- c. Valid Washington State driver's license number or, where the driver was permitted to list a different state's driver's license number in the for-hire driver's license application, driver's license number from that other state
- d. Valid for-hire driver's license/permit number issued by King County/City of Seattle¹
- e. The following language:
 - i. "I, (name of driver), want to be represented by (name of QDR) for the purposes of collective negotiations with (name of driver's Driver Coordinator). It is my intent that my name typed below is my signature."

"I understand that my signature means that I want (name of QDR) to negotiate with (Driver Coordinator) on behalf of all drivers about the terms and conditions of our work for (Driver Coordinator), including about payments to/from drivers, safety and vehicle equipment standards,

¹ For purposes of collecting statements of interest, a driver must possess a valid (i.e., unexpired or, if expired, expired for no more than 60 days) for-hire driver license/permit on the date he/she signs the statement. Sixty days is given as a grace period while an expired license/permit goes through the renewal process.

and other rules that apply to drivers. Any agreement that is reached will need to be approved by the City of Seattle. If a majority of drivers who are considered "qualifying drivers" under the law sign statements of interest, then (QDR) will become the representative of all (Driver Coordinator)'s drivers, and drivers will then negotiate collectively through (QDR)."

- f. Driver's electronic signature
 - g. Date the electronic signature was provided
2. No language other than those items set forth in section 1 will appear on the screen or other visual display that the driver sees when the driver provides an electronic signature.
3. A QDR submitting electronic signatures must provide access to the system or technology used so that the party verifying can view all statements and signatures submitted for consideration, and must also submit the following:
- a. A declaration, signed by the QDR's representative under penalty of perjury, that:
 - i. Identifies what steps were taken to ensure: (i) that the electronic signature is that of the signatory driver, and (ii) that the driver herself signed the document and
 - ii. Confirms that the electronically transmitted information showing what the drivers signed is the same information seen and signed by the drivers
 - b. A petition request on a City supplied form that, among other things, will state when the QDR received the driver list from the Driver Coordinator
 - c. An electronic copy of the version of the qualifying driver list received from each Driver Coordinator the QDR seeks to represent

Paper-Based Option

1. In addition to the driver's full name (first, last, and middle initial), the QDR's name, and the name of the driver's Driver Coordinator, which must be set forth as provided in subsection e. below, a paper-based statement of interest submitted, which can be either an individual card or a signature list, must clearly and conspicuously show:
- a. Driver's e-mail address
 - b. Driver's telephone number
 - c. Valid Washington State driver's license number or, where the driver was permitted to list a different state's driver's license number in the for-hire driver's license application, driver's license number from that other state
 - d. Valid for-hire driver's license/permit number issued by King County/City of Seattle²
 - e. The following language:
 - i. In the case of an individual card: "I (name of driver) want to be represented by (name of QDR) for the purposes of collective negotiations with (name of driver's Driver Coordinator)."

² For purposes of collecting statements of interest, a driver must possess a valid (i.e., unexpired or, if expired, expired for no more than 60 days) for-hire driver license/permit on the date he/she signs the statement. Sixty days is given as a grace period while an expired license/permit goes through the renewal process.

"I understand that my signature means that I want (name of QDR) to negotiate with (Driver Coordinator) on behalf of all drivers about the terms and conditions of our work for (Driver Coordinator), including about payments to/from drivers, safety and vehicle equipment standards, and other rules that apply to drivers. Any agreement that is reached will need to be approved by the City of Seattle. If a majority of drivers who are considered "qualifying drivers" under the law sign statements of interest, then (QDR) will become the representative of all (Driver Coordinator)'s drivers, and drivers will then negotiate collectively through (QDR)."

- ii. In the case of a signature list, with signatures listed below: "I, the undersigned, want to be represented by (name of QDR) for the purposes of collective negotiations with (name of driver's Driver Coordinator)."

"I understand that my signature means that I want (name of QDR) to negotiate with (Driver Coordinator) on behalf of all drivers about the terms and conditions of our work for (Driver Coordinator), including about payments to/from drivers, safety and vehicle equipment standards, and other rules that apply to drivers. Any agreement that is reached will need to be approved by the City of Seattle. If a majority of drivers who are considered "qualifying drivers" under the law sign statements of interest, then (QDR) will become the representative of all (Driver Coordinator)'s drivers, and drivers will then negotiate collectively through (QDR)."

- f. Driver's handwritten signature
 - g. Date the handwritten signature was provided
- 2. No language other than those items set forth in section 1 will appear on the individual card or the signature list page that a driver signs.
 - 3. A QDR submitting signatures handwritten on paper must also submit:
 - a. A petition request on a City supplied form
 - b. Scanned copies of all signed statements of interest submitted via a means specified by the City such as a secure file transfer protocol (ftp) site or similar
 - c. Hard copies of all original signed statements of interest
 - d. An electronic copy of the version of the qualifying driver list received from each Driver Coordinator whose drivers the QDR seeks to represent

Foreign Language Translations

A QDR is strongly encouraged to make paper-based or electronic-based statements of interest and any related materials, regardless of paper, electronic or other format, available to drivers in languages in addition to English. Possible languages include Somali, Amharic, Oromo, Tigrinya, Hindi, Punjabi and Spanish. Certified translated versions of the English language statements set forth in 1(e) above will be accepted.

Expiration and Validity of a Driver's Signature

1. Under either the electronic or paper-based option, a qualifying driver's signature is valid for one year from the date the driver signed a statement of interest, unless that qualifying driver has signed a later-dated statement revoking his or her support for the QDR that is dated on or before the date the statements supporting representation by the QDR are submitted for verification. The signing date must be shown; if the signing date cannot be established, the statement will be deemed invalid. If the verification process is extended for any reason, the Director may extend the validity of a signature.
2. An electronic or handwritten signature submitted by a QDR in support of representation is presumed to be valid unless called into question by objective evidence submitted to the City or records in the City's possession.
3. Nothing will prohibit a qualifying driver from signing statements of interest in support of more than one QDR. If a qualifying driver does so, any and all such statements of interest may be verified and counted.

Revocation of Statements of Interest

Any revocations of support for a QDR must be in the same format (electronic or paper-based) as the original statement of interest.

Electronic Option

1. An electronic statement revoking support for a QDR will include the same information required to be included in a statement of interest, except that instead of the language expressing support for a QDR an electronic revocation must state the following (or a translated version of the following):

"I, (name of driver), do not want to be represented by (name of QDR) for the purposes of collective negotiations with (name of driver's Driver Coordinator), and hereby revoke any statements of interest supporting that (QDR) that I have previously signed. It is my intent that my name typed below is my signature."

"I understand that my signature means that I do not want (name of QDR) to negotiate with (Driver Coordinator) on behalf of all drivers about the terms and conditions of our work for (Driver Coordinator), including about payments to/from drivers, safety and vehicle equipment standards, and other rules that apply to drivers."
2. No language other than those items set forth in section 1 will appear on the screen or other visual display that the driver sees when the driver provides an electronic signature.
3. A person submitting electronic signatures must provide access to the system or technology used so that the party verifying can view all statements and signatures submitted for consideration, and must also submit a declaration, signed by the person submitting the statements under penalty of perjury, that:

- a. Identifies what steps were taken to ensure: (i) that the electronic signature is that of the signatory driver, and (ii) that the driver herself signed the document,
 - b. Confirms that the electronically transmitted information showing what the drivers signed is the same information seen and signed by the drivers.
4. The signing date must be shown; if the signing date cannot be established, the revocation will be deemed invalid.

Paper-Based Option

1. A paper-based statement revoking support for a QDR will include the same information required to be included in a statement of interest, except that instead of the language expressing support for a QDR an electronic revocation must state the following (or a translated version of the following):
 - a. In the case of an individual card: "I, (name of driver), do not want to be represented by (name of QDR) for the purposes of collective negotiations with (name of driver's Driver Coordinator), and hereby revoke any statements of interest supporting that (QDR) that I have previously signed."

"I understand that my signature means that I do not want (name of QDR) to negotiate with (Driver Coordinator) on behalf of all drivers about the terms and conditions of our work for (Driver Coordinator), including about payments to/from drivers, safety and vehicle equipment standards, and other rules that apply to drivers."

 - i. Driver's handwritten signature
 - ii. Date the handwritten signature was provided
 - b. In the case of a signature list, with signatures listed below: "I, the undersigned, do not want to be represented by (name of QDR) for the purposes of collective negotiations with (name of driver's Driver Coordinator), and hereby revoke any statements of interest supporting the (QDR) that I have previously signed."

"I understand that my signature means that I do not want (name of QDR) to negotiate with (Driver Coordinator) on behalf of all drivers about the terms and conditions of our work for (Driver Coordinator), including about payments to/from drivers, safety and vehicle equipment standards, and other rules that apply to drivers."

 - i. Driver's handwritten signature
 - ii. Date the handwritten signature was provided
2. No language other than those items set forth in section 1 will appear on the individual card or the signature list page that a driver signs.
3. A person submitting signatures handwritten on paper must also submit:
 - a. Scanned copies of all signed statements of revocation submitted via a means specified by the City such as a secure file transfer protocol (ftp) site or similar
 - b. Hard copies of all original signed statements of revocation

4. The signing date must be shown; if the signing date cannot be established, the revocation will be deemed invalid.

Public Records Requests and Confidentiality of Materials Used to Verify Statements of Interest or Investigate Challenges to an EDR Certification or Non-Certification

During the processes to verify drivers' statements of interest or to challenge a certification or non-certification of an EDR, whether being verified by the City or an independent third party designated by the Director, if the City receives a public records request for records designated as confidential by the submitting party, the City will notify the submitting party in writing of the request and will postpone disclosure. The party will be allowed an opportunity to obtain and serve the City with a court order to prevent the City from releasing the records.

Verification of Qualifying Drivers' Statements of Interest and Certification of an EDR

Qualifying drivers' statements of interest submitted by QDRs will be verified or deemed invalid within 27 calendar days of receipt by the City or an independent third party designated by the Director unless more than one QDR has given notice of intent to represent drivers of a particular Driver Coordinator.

If more than one QDR has given such notice, the qualifying drivers' statements of interest will be verified or deemed invalid within 27 calendar days of receiving statements of interest from all QDRs seeking to represent drivers of that Driver Coordinator (or within 27 calendar days of the deadline for submitting statements of interest for that Driver Coordinator, whichever of the two dates occurs first).

Statements may be verified by comparing one or more of the following elements against a source document, including a list of qualifying drivers produced by a Driver Coordinator, to provide reasonable assurance that the statement was signed by the qualifying driver:

1. Name
2. Signature
3. Telephone number
4. E-mail address
5. Unique personal identifier (e.g., a State issued driver's license number or a City/King County issued for-hire driver's license number)

During the verification period, the City or an independent third party designated by the Director may seek additional information from either a Driver Coordinator or a QDR if such information assists in the timely completion of the verification process. In the event that the independent third party chooses to use source document(s) generated within the

City/King County for-hire driver licensing process, then the City is authorized to release that information to the independent third party.

A Driver Coordinator, a QDR or other party may provide additional records to assist the verification process, such as signatures or unique personal identifiers of qualifying drivers, even if not requested by the Director or an independent third party. Such records, as well as any statements by qualifying drivers revoking support for a QDR or any other records or evidence that should be considered as part of the verification process, will be submitted within 5 calendar days of the QDR's submission of the request seeking certification as an EDR or may be disregarded.

The Director will select from one of three options to verify drivers' statements of interest:

1. Dedicate staff from the Department of Finance and Administrative Services or another City department.
2. Use the City's contracting process to establish a list of independent third-party vendors. The QDR seeking to represent drivers and the Driver Coordinator will then either agree upon a third-party vendor or will take turns striking the names of vendors listed by the Director until one is chosen. The vendor's services will be paid for by the City.
3. Secure the services of a governmental entity other than the City through a contract, memorandum of understanding or another instrument. Services provided by the governmental entity will be paid for by the City.

The option selected by the Director will be used to verify the statements submitted by all QDRs associated with a particular commencement date.³ The Director will announce by e-mail and/or an online notification which option has been selected for the verification no later than 125 calendar days after the commencement date.

Within 30 calendar days of the QDR's submission of statements of interest (or, if multiple QDRs have given notice of intent to represent drivers of a particular Driver Coordinator, within 30 calendar days of the submission of statements of interest by all such QDRs), upon confirmation from either the City or an independent third party that the QDR has submitted verified statements from a majority of qualifying drivers and that no other QDR has submitted more verified statements, the Director will certify the QDR as the Exclusive Driver Representative (EDR) for that particular Driver Coordinator.

Upon such certification, the City will notify, by e-mail, the EDR and the Driver Coordinator of the EDR's status and the parties' obligations to meet and negotiate, and will provide public notice online. If the Director does not certify a QDR that has submitted statements of interest as an EDR, the City will notify, by e-mail, the QDR and the Driver Coordinator of this non-certification.

³ The initial commencement date is January 17, 2017.

Challenging an EDR Certification or Non- Certification

Written objections to a QDR's certification as an EDR, or to a QDR's non-certification, along with any documentary support for those objections, may be submitted to the Director by U.S. mail, personal delivery or e-mail within 10 calendar days of the certification or non-certification.

If such objections are filed, the Director will notify the QDRs that have submitted statements of interest, the Driver Coordinator, and the public of the nature of the objections via email and public online notice. Any responses to such objections must be filed in writing by U.S. mail, personal delivery or e-mail within 10 calendar days of the date of such notice.

1. Objections to an EDR's certification may be made on the grounds that the QDR did not demonstrate majority support, that another QDR demonstrated greater support and/or that there was fraud or coercion in obtaining the statements of interest. The party filing any such objections may submit written objections along with any documentary support.
2. Objections to a QDR's non-certification as an EDR may be made on the grounds that it did have majority support that was greater than any other QDR, that there was fraud or coercion in obtaining revocations of statements of interest, that the list of qualifying drivers did not comply with the SMC and/or that the Driver Coordinator violated the SMC in a manner that interfered with drivers' exercise of their rights. The QDR may submit written objections along with any documentary support.

At the Director's discretion, an in-person hearing may be convened to allow for live testimony on the allegations/appeals made. In the event of an objection to an EDR's certification or a QDR's non-certification, all applicable deadlines may be suspended at the Director's discretion. After the Director has issued a written ruling, the deadlines will resume per the schedule specified by the SMC. The Director will issue a written ruling on any objections within 30 calendar days of the deadline for filing written responses.

1. If after consideration of the objections, the Director concludes that the QDR did demonstrate majority support that was greater than the support for any other QDR, that fraud or coercion in obtaining the statements of interest did not occur or did not affect the outcome, that fraud or coercion in obtaining revocations of statements of interest did affect the outcome and/or that a Driver Coordinator's violation of the SMC interfered with drivers' exercise of rights in a manner that affected the outcome, the Director will issue a ruling upholding the QDR's certification as an EDR. The date the QDR's certification is upheld will be treated as the date to initiate subsequent processes, including collective negotiations.

If the Director concludes that a Driver Coordinator's violation of the SMC interfered with drivers' exercise of rights but cannot determine whether that violation affected the

outcome, the Director may establish a new period for the QDR to submit statements of interest.

2. If after consideration of the objections, the Director concludes that the QDR did not demonstrate majority support, that another QDR submitted more valid statements of interest and/or that fraud or coercion in obtaining the statements of interest affected the outcome, the Director will revoke the QDR's certification as an EDR. If the reason for revocation is that another QDR submitted more valid statements of interest, then the Director will certify that QDR as the EDR, and the process for challenging the new EDR certification will be made available, with the same applicable deadlines.



City of Seattle
Edward B. Murray, Mayor

Finance and Administrative Services
Fred Podesta, Director

Applicant: City of Seattle Department of Finance and Administrative Services	Page: 1 of 4	Revises: New
	Publication: 12/29/2016	Effective: 12/29/2016
Director's Rule: FHDR-4, Subjects of Bargaining between a Driver Coordinator and an Exclusive Driver Representative	Code and Section Reference: SMC 6.310.110 and .735	
	Type of Rule: Code Interpretation	
	Ordinance Authority: SMC 3.02.060	
Approved:  _____ Fred Podesta, Director <u>12/27/2016</u> _____ Date		

CITY CLERK

2016 DEC 29 AM 9:40

City of Seattle Rules for For-Hire Drivers

Rule FHDR-4, Subjects of Bargaining between a Driver Coordinator and an Exclusive Driver Representative (SMC 6.310.110 and .735)

Introduction

This Rule establishes the subjects of bargaining between a Driver Coordinator and an Exclusive Driver Representative (EDR) and associated business processes as they pertain to for-hire drivers and as authorized by the Seattle Municipal Code (SMC).

Mandatory Subjects of Bargaining

For purposes of this Rule, the City defines mandatory subjects of bargaining as those that directly affect whether for-hire drivers can perform their services in a safe, reliable and economically viable manner. The following subjects, as outlined in the SMC, will be mandatory subjects of bargaining during negotiations between a Driver Coordinator and an EDR:

1. Best practices regarding vehicle equipment standards
2. Safe driving training and/or practices
3. The manner in which the driver coordinator will conduct criminal background checks of all prospective drivers
4. The nature and amount of payments to be made by, or withheld from, the driver coordinator to or by the drivers
5. Minimum hours of work
6. Drivers' conditions of work
7. Rules that apply to drivers including discipline, termination or deactivation

In addition, whether for-hire drivers will be required to become members of or make other payments to an EDR will be a mandatory subject. Other than contract provisions that would be illegal or unenforceable or not in compliance with the SMC, the City defines all other subjects not listed in this Rule as permissive subjects.

Parties may not refuse to reach an agreement within 90 calendar days of certification of an EDR based on disagreement about a permissive subject; nor will a permissive subject be submitted to interest arbitration unless both the Driver Coordinator and the EDR agree that the matter should be resolved by interest arbitration. Whether for-hire drivers will be required to become members of or make other payments to an EDR also will not be submitted to interest arbitration unless both the Driver Coordinator and the EDR agree to

that submission.

Good Faith Negotiations

Per the SMC, a Driver Coordinator and an EDR will meet and negotiate, in good faith, the mandatory subjects of bargaining. Permissive subjects may be negotiated if both the Driver Coordinator and the EDR agree to such negotiations. Good faith negotiations generally mean each party has an obligation to make individuals with decision-making authority available at mutually agreed-upon dates and times and to actively participate in negotiations in a manner that indicates a sincere desire and effort to reach common ground. The City will hold both a Driver Coordinator and an EDR to this standard.

Complaint Process

Allegations that a Driver Coordinator or EDR has violated an obligation in relation to the 90-day negotiation process, including alleged failure to negotiate in good faith, may be submitted to the Director in writing by U.S. mail, personal delivery or e-mail within 10 calendar days of the alleged occurrence. The party making the complaint will include specific circumstances of the allegations of bad faith and any documentation to corroborate the allegations.

If such an allegation is filed, as part of its investigation, the Director will notify the party that is the subject of the allegation of the nature of the allegation and copies of all materials submitted as part of the complaint and the opportunity to respond. Written responses, including any documentation to refute the allegations, must be submitted to the Director by U.S. mail, personal delivery or e-mail within 10 calendar days of such notice.

Based on a preponderance of the evidence submitted, the Director will issue a written ruling on any objections within 14 calendar days of the deadline for filing written responses. If deemed necessary to a full and fair investigation, the Director has discretion to request additional evidence or materials from either party and to extend the deadline for issuing a written ruling.

If the Director concludes that the Driver Coordinator or EDR did not negotiate in good faith or otherwise violated the SMC, the Director will then will issue a notice of violation, require compliance and inform the violator of daily penalties of up to \$10,000 for failure to cure, and is additionally authorized to establish a new deadline after which either party may submit a request for interest arbitration if that remedy is requested by the party making the allegation. The party found in violation may exercise hearing rights before the Hearing Examiner and all available judicial remedies as provided for in the SMC.

Post-Agreement Negotiations

Per the procedures and standards set forth in the SMC, the Director may withdraw approval of an agreement between an EDR and a Driver Coordinator. If that occurs, the EDR and Driver Coordinator will meet and negotiate in good faith with the purpose of reaching a new agreement, and the SMC provisions that apply to negotiations of successor agreements will apply.

Aside from that situation, an EDR and Driver Coordinator may elect to discuss additional terms and, if agreement is reached, will submit proposed amendments to the agreement to the Director for review and approval. Either the EDR or Driver Coordinator may decline to reopen the agreement to discuss the additional terms.